

In the Matter Of:

*IN RE DETECTIVE DAVID MARCH*

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DETECTIVE DAVID MARCH

April 26, 2016

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***Amicus***<sup>tm</sup>  
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MARCH DETECTIVE DAVID  
IN RE DETECTIVE DAVID MARCH

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3

OFFICE OF INSPECTOR GENERAL  
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4

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Appeared on behalf of

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Detective David March.

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REPORTED BY:

MICHELLE M. PAOLETTI YOHLER, CSR, RPR, CRR

Illinois CSR No. 84-4531.

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1 MR. NEUMER: As a preliminary matter, I am  
2 providing the following information. An  
3 independent certified court reporter is present  
4 today to provide a verbatim transcript of this  
5 interview.

6 To aid in the accuracy of the  
7 transcript, it is the custom and practice of  
8 court reporters to audio record the interview.  
9 The recording is the confidential work product  
10 property of the court reporter and will not be  
11 provided to any party including the OIG. If you  
12 request, the audio recording will be  
13 discontinued.

14 MR. MCKAY: I do not request that the audio  
15 recording be discontinued if it's only being  
16 used for the court reporter's benefit to prepare  
17 the transcript. As soon as this statement is  
18 completed, if the court reporter is going to  
19 share this audio recording with neither side,  
20 I'm fine with the audio recording happening as  
21 is because it's my understanding that only the  
22 court reporter is using this and no one else.  
23 Is that correct?

24 MR. NEUMER: That is correct.

1 MR. McKAY: Then I have no objection.

2 MR. NEUMER: Let the record reflect today's  
3 date is April 26th, 2016. The time is  
4 10:04 a.m. We are located at Amicus Court  
5 Reporters, 300 West Adams, Suite 800.

6 My name is Peter Neumer, N-e-u-m-e-r,  
7 the court reporter is Michelle Yohler, and I'd  
8 ask that the other individuals present identify  
9 themselves and spell their name for the record.

10 MR. BROWN: Kristopher Brown, B-r-o-w-n,  
11 City of Chicago, Office of Inspector General.

12 MR. McKAY: My name is James P. McKay, Jr.  
13 I'm an attorney, and I represent Detective David  
14 March.

15 THE WITNESS: Detective David March, Star  
16 number -- last name is spelled M-a-r-c-h, Star  
17 No. 20563 of the Chicago Police Department.

18 MR. NEUMER: There are no other individuals  
19 present. We are here today pursuant to an  
20 investigation being conducted under Chapter 2-56  
21 of the Municipal Code of the City of Chicago.  
22 We are here for an interview of Detective David  
23 March.

24 Detective David March, would you

1 please raise your right hand.

2 (WHEREUPON, the witness was duly sworn.)

3 MR. NEUMER: I am now going to show you a  
4 document entitled Advisement, and I would ask  
5 that you read this document along with me. I'm  
6 going to read it out loud, and I'm going to ask  
7 after each paragraph whether you have reviewed  
8 the paragraph that I just read aloud.

9 (WHEREUPON, OIG Exhibit No. 1 was  
10 tendered to the witness.)

11 MR. NEUMER: So the Advisement of Rights  
12 states, "I, Detective David March, understand  
13 that I am being interviewed by Peter Neumer and  
14 Kristopher Brown from the City of Chicago,  
15 Office of Inspector General. I understand that  
16 this interview is part of an official  
17 investigation and that I have a duty to  
18 cooperate with the Office of Inspector General,  
19 which includes answering all questions  
20 completely and truthfully."

21 Detective, do you see the paragraph  
22 that I just read aloud to you?

23 THE WITNESS: Yes.

24 MR. NEUMER: "I understand that I have no

1 right to remain silent. I understand that I  
2 have an obligation to answer questions put to me  
3 truthfully. I understand that if I refuse to  
4 answer questions put to me, I will be ordered by  
5 a superior officer to answer the questions."

6 "I further understand and I have been  
7 advised that if I persist in my refusal to  
8 answer after an order to do so, such further  
9 refusal constitutes a violation of the rules and  
10 regulations of the Chicago Police Department and  
11 may serve as the basis for my discharge."

12 Detective, do you see the paragraph  
13 that I just read aloud to you?

14 THE WITNESS: Yes.

15 MR. NEUMER: "I understand and have been  
16 advised that my statements and responses may  
17 constitute an official police report. I  
18 understand that Rule 14 of the Chicago Police  
19 Department's rules and regulations prohibits  
20 making a false report, written or oral, and I  
21 further understand that making such a false  
22 report, whether written or oral, may result in  
23 my separation from the Chicago Police  
24 Department."

1 Detective, do you see the paragraph  
2 that I just read aloud to you?

3 THE WITNESS: Yes.

4 MR. NEUMER: "I understand that any  
5 statement made by me during this interview may  
6 be used as evidence of misconduct or as the  
7 basis for disciplinary action up to and  
8 including removal or discharge."

9 Detective, do you see the paragraph I  
10 just read aloud to you?

11 THE WITNESS: Yes.

12 MR. NEUMER: "I understand that any  
13 statement made by me during this interview and  
14 the fruits thereof cannot be used against me in  
15 a criminal proceeding."

16 Detective, do you see the paragraph  
17 that I just read aloud to you?

18 THE WITNESS: Yes.

19 MR. NEUMER: "I understand that I have the  
20 right to have a union representative or legal  
21 counsel of my choosing present at the interview  
22 to consult with and that I will be given a  
23 reasonable time to obtain a union representative  
24 or legal counsel as long as the interview is not

1 unduly delayed."

2 Detective, do you see the paragraph I  
3 just read aloud to you?

4 THE WITNESS: Yes.

5 MR. NEUMER: "I understand that a refusal  
6 to answer any question or any false, inaccurate,  
7 or deliberately incomplete statement by me would  
8 constitute a violation of Chicago Municipal  
9 Ordinance 2-56 and may serve as the basis for my  
10 discharge."

11 Detective, do you see the paragraph I  
12 just read aloud to you?

13 THE WITNESS: Yes.

14 MR. NEUMER: "I acknowledge that this  
15 statement of my administrative rights has been  
16 read aloud to me and I have been allowed to  
17 review this document."

18 Detective, do you see the paragraph  
19 that I just read aloud to you?

20 THE WITNESS: Yes.

21 MR. NEUMER: At this time I would ask that  
22 you sign the Advisement of Rights.

23 MR. McKAY: Before we do that, Mr. Neumer,  
24 can I put something on the record and then ask

1 you a question on the record?

2 MR. NEUMER: Sure.

3 MR. McKAY: Detective David March is here  
4 pursuant to the Inspector General's Notification  
5 of Interview, whereby he is required to appear  
6 here this morning. And he is being alleged to  
7 be an accused. And he is here for a statement.

8 And regarding this statement, a  
9 number of allegations have been made.  
10 Allegations 1(a), subsections 1 through 16;  
11 allegation 1(b), subsections 1 and 2; allegation  
12 number 2, allegation number 3, allegation  
13 number 4, allegation number 5, allegation  
14 number 6, allegation number 7, and allegation  
15 number 8; is that correct?

16 MR. NEUMER: If you're working off the  
17 Notification of Allegations, I assume --

18 MR. McKAY: Yes, sir.

19 MR. NEUMER: -- that is correct.

20 MR. McKAY: Let me ask this, Mr. Neumer:  
21 On behalf of the Inspector General for the City  
22 of Chicago, do you believe these allegations  
23 indicate that a criminal prosecution is probable  
24 against Detective March?

1 MR. NEUMER: So we are conducting an  
2 administrative investigation, and we are not  
3 working with any other bodies and take no view  
4 as to the question whether criminal charges are  
5 probable against Detective March. This is an  
6 administrative investigation.

7 MR. MCKAY: Mr. Neumer, what do you mean  
8 you take no view regarding whether criminal  
9 charges are probable?

10 MR. NEUMER: This is an administrative  
11 investigation. We're not working with any other  
12 bodies on this investigation.

13 MR. MCKAY: Your allegations, sir, include  
14 language such as, "witness tampering,  
15 obstruction of justice, and providing false  
16 statements." This language is consistent with  
17 violations of Illinois criminal law. As such,  
18 I'm advising my client not to answer  
19 this -- strike that -- not to answer your  
20 questions unless ordered to do so by a superior  
21 officer.

22 Further, Mr. Neumer, I'm asking that  
23 you, as the Assistant Inspector General  
24 conducting this statement, advise

1 Detective March of his Constitutional rights  
2 pursuant to Miranda versus Arizona. Will you do  
3 that?

4 MR. NEUMER: No. This is -- again, as this  
5 is an administrative investigation, it's not a  
6 criminal investigation, and OIG is under no  
7 obligation to provide Detective March with any  
8 sort of Constitutional rights advisement.

9 MR. MCKAY: Thank you.

10 Mr. Neumer, I note in your Advisement  
11 of Rights that you just read to Detective March  
12 that the Inspector General may consider that  
13 Detective March's statements may constitute an  
14 official police report.

15 Can you please reconcile for me how  
16 you may consider Detective March's statements to  
17 be possibly a police report, yet, at the same  
18 time, you deny the existence that criminal  
19 charges could be probable against  
20 Detective March?

21 MR. NEUMER: Sure. Again, this is an  
22 administrative investigation, and as is set  
23 forth in the Advisement, it says that any  
24 statement made by Detective March during this

1 interview and the fruits thereof cannot be used  
2 against him in a criminal proceeding.

3 MR. MCKAY: Thank you. I just have a few  
4 more matters before we begin.

5 Mr. Neumer, I have in my possession a  
6 letter that was sent by the Inspector General  
7 for the City of Chicago, specifically Deputy  
8 Inspector General William Marback dated  
9 December 29, 2015, to Ralph Price, general  
10 counsel for the Chicago Police Department,  
11 requesting a number of items. Some of them even  
12 named Detective March.

13 Do you intend -- -- strike that.

14 Did your office receive any of these  
15 items Mr. Marback requested from the Chicago  
16 Police Department, and, if so, do you intend to  
17 use any of these items during this statement of  
18 Detective March today?

19 MR. NEUMER: Well, honestly, I can't say  
20 specifically everything that we received in  
21 response to that document request. We have  
22 provided Detective March with a list of  
23 documents, which we'll go through, and there  
24 will be likely a couple of additional exhibits

1 that we plan to show Detective March.

2 Whether they were produced in  
3 response to the December 29th, 2015, request, I  
4 cannot say with 100 percent certainty.

5 What I can say is that any document  
6 we will put in front of Detective March today as  
7 an exhibit, you will be given an opportunity to  
8 review that document in full, and you will be  
9 able to take as much time as you need to review  
10 and analyze that document. So that's what I can  
11 say.

12 MR. MCKAY: Thank you.

13 With that said, we are in receipt of  
14 a number of documents that was tendered to  
15 Detective March that he signed for, I believe,  
16 on April the 7th of this year. So there's no  
17 surprise there.

18 You just indicated that there may be  
19 other exhibits in addition to those listed in  
20 the receipt signed by Detective March that you  
21 may present today?

22 MR. NEUMER: That's correct.

23 MR. MCKAY: Can you tell me what they are  
24 now?

1 MR. NEUMER: Well, I think it depends on  
2 the course of the interview. We try and plan  
3 these things out, but I honestly -- I can't say,  
4 again, with 100 percent certainty every document  
5 that we will or won't show.

6 So, again, there's not going to be  
7 any hiding of the ball. We want Detective March  
8 to understand every document that we put in  
9 front of him, where it's from, what it states,  
10 what it purports to be, and will be given an  
11 opportunity to comment if maybe something isn't  
12 what it seems to be. So -- but I think it's  
13 premature to go through every document that we  
14 may show to Detective March throughout the  
15 course of this.

16 Again, the bulk of what we will go  
17 through has already been provided and  
18 it's -- you know, maybe three or four, two, some  
19 additional exhibits that we would put on the  
20 record today. So, again, the bulk of it has  
21 certainly been already provided to  
22 Detective March.

23 MR. MCKAY: Besides any of the police  
24 reports that Detective March drafted in this

1 case, do you have any documents prepared or  
2 signed by Detective March not listed on the  
3 items that was presented to him of which he  
4 signed a receipt for?

5 MR. NEUMER: I don't believe that -- I  
6 think every report that Detective March drafted  
7 or that we think Detective March drafted should  
8 have been provided to him.

9 MR. MCKAY: Very good. Thank you.

10 Not counting the statements of  
11 witnesses taken in this case by Detective March  
12 and other police officers at that time back in  
13 October of 2014, do you have any statements your  
14 office has recently obtained that you intend to  
15 use against Detective March today?

16 MR. NEUMER: In terms of statements from  
17 witnesses or something like that?

18 MR. MCKAY: Yes.

19 MR. NEUMER: We will discuss information  
20 that has been provided to us during the course  
21 of this investigation so -- and our  
22 investigation began in December of this year.  
23 So there will be information that came to us  
24 during the course of our investigation we'll

1 discuss with Detective March.

2 MR. McKAY: Prior to today I had e-mailed  
3 you, Mr. Neumer, to request some specificity  
4 regarding allegations that are made against  
5 Detective March.

6 You were kind enough to respond to my  
7 e-mail by stating, among other things, that the  
8 Inspector General for the City of Chicago has  
9 been provided with broad authority to  
10 investigate any violation Chicago Police  
11 Department rules arising out of the Laquan  
12 McDonald shooting which encompasses all of the  
13 specific allegations set forth in the  
14 Notification of Allegations, the Office of  
15 Inspector General provided to Detective March.

16 The complaints -- the complaint, I  
17 should say -- the allegations, I should say,  
18 against Detective March list Interim  
19 Superintendent John J. Escalante as the  
20 complainant and references Superintendent  
21 Escalante's letter to the Inspector General  
22 dated January the 13th, 2016. That letter has  
23 been provided to Detective March. Thank you  
24 very much, Mr. Brown.

1           That letter references a report --  
2       strike that -- a memo prepared by Sergeant  
3       S. Soria, S-o-r-i-a, a memo Sergeant Soria  
4       drafted that refers only to inattention to duty,  
5       the inoperation of the audio mics attached or  
6       affixed to or part of the video dash cameras in  
7       some of the police vehicles on the night of this  
8       particular shooting.

9           Nowhere in Sergeant Soria's memo  
10       indicates anything whatsoever arising to the  
11       level of providing false statements, witness  
12       tampering, obstruction of justice, anything even  
13       remotely connected to the allegations that are  
14       lodged against Detective March today.

15           In addition, Sergeant --  
16       Superintendent Escalante's letter asks the  
17       Inspector General Inspector General to conduct  
18       this investigation and determine if there was  
19       any misconduct by the police officers. I ask  
20       you again, Mr. Neumer, on the record, does the  
21       Inspector General have any specific sources that  
22       support the specific allegations against  
23       Detective March separate and apart from Sergeant  
24       Escalante's letter?

1           If so, Detective March is entitled to  
2 know who these people or persons are -- person  
3 or persons are. If they are not sworn officers,  
4 Detective March is entitled to an affidavit by  
5 these person or persons who are providing these  
6 allegations, and, absent that, Mr. Neumer, I can  
7 only assume that the true complainant in this  
8 case is not Superintendent Escalante or, to a  
9 lesser degree, Sergeant Soria; the true  
10 complainant in this case is the Inspector  
11 General and his agents. And if that's the case,  
12 Mr. Neumer, we object to the Inspector General  
13 for the City of Chicago conducting an  
14 investigation of its own allegations.

15           Can you correct me if I'm wrong? Are  
16 there other people your office is relying on to  
17 support these allegations you make against  
18 Detective March?

19           MR. NEUMER: Sure. Interim Superintendent  
20 Escalante asked the Office of Inspector General  
21 to investigate whether any officers committed  
22 any violation of Chicago Police Department  
23 rules, policies, or orders in connection with  
24 their response or handling of the investigation

1 of the Laquan McDonald shooting.

2 Escalante attached Sergeant Soria's  
3 initiation report, which speaks for itself.  
4 Escalante's letter gives the Office of Inspector  
5 General authority to conduct an investigation  
6 into the Laquan McDonald shooting and the  
7 investigations of that shooting, which  
8 encompasses all and any rule violation arising  
9 there out of.

10 And all of the allegations included  
11 in the Notice of Allegations that the Office of  
12 Inspector General provided to Detective March  
13 via the Bureau of Internal Affairs fall under  
14 the authority provided by Interim Superintendent  
15 Escalante.

16 To answer your question, the Office  
17 of Inspector General is not in possession of any  
18 signed affidavits or complaints other than the  
19 complaints referenced in Paragraph 1 of the  
20 complainant section of the Notice of  
21 Allegations -- Notification of Allegations that  
22 OIG provided to Detective March.

23 MR. McKAY: Thank you, Mr. Neumer. It just  
24 seems odd that Sergeant Soria's memo only

1 references the non-use of audio during the  
2 video-taking of the incident we are -- you are  
3 investigating, the McDonald shooting.

4 To jump from that memo to  
5 Superintendent Escalante's general request to  
6 your office to conduct an investigation to see  
7 if there's any misconduct is one thing, but then  
8 to allege specific things against  
9 Detective March that include, among other  
10 things, that he didn't conduct a complete,  
11 thorough, and properly documented and  
12 professional investigation; that he, among other  
13 things, tampered with witnesses; that he, among  
14 other things, obstructed justice; and that he,  
15 among other things, made false statements in the  
16 reporting of the shooting is too much without  
17 somebody supplying information, truthful or  
18 otherwise, to your office to support these  
19 allegations.

20 He is not waiving any affidavit. He  
21 is entitled -- strike that. You are precluded  
22 from conducting an investigation based on any  
23 anonymous complaint pursuant to the contract  
24 between the City of Chicago and the Fraternal

1 Order of Police Lodge 7, his union  
2 representatives in this particular case.

3 So, again, where are these  
4 allegations coming from, Mr. Neumer? He has an  
5 absolute right to know who his accusers are and  
6 to confront those accusers. If they are the  
7 Inspector General or his agents, just say so.  
8 Just say so, okay?

9 If not, then we object to this  
10 statement being taken in light of the  
11 due-process rights that are being violated by  
12 your office. Nothing personal against you two  
13 gentlemen, but the manner in which this  
14 statement is being taken and these allegations  
15 that have been made are far too specific to just  
16 come from some general letter by Mr. Escalante.  
17 So that's our objection.

18 In addition to that, Mr. Neumer, I  
19 sent a letter to you and to your boss,  
20 Mr. Ferguson, asking respectfully that  
21 Mr. Ferguson and his office recuse themselves from  
22 this investigation.

23 Simply put, Mr. Ferguson is  
24 prejudiced against Detective March, and I submit

1 other police officers in this particular case,  
2 because of his presence and his participation on  
3 the Police Accountability Task Force. He is the  
4 technical advisor of the task force according to  
5 the list of task force members in this  
6 particular organization.

7 The chairperson of this task force is  
8 Lori Lightfoot who just happens to be the  
9 president of the Chicago Police Board.

10 Now, with respect to Mr. Ferguson  
11 being a part of this task force, coupled with  
12 the recent report that his task force  
13 issued -- specifically this report that was  
14 released on April 13th of 2016 -- clearly  
15 indicates a position of Mr. Ferguson and  
16 Ms. Lightfoot.

17 They, through their report, which  
18 consists of two reports, a full report well over  
19 160-plus pages and an executive summary, both of  
20 which clearly indicate that the Task Force has  
21 made some conclusions in this matter regarding  
22 the McDonald shooting long before they heard the  
23 sworn testimony of Detective March, long before  
24 they know the totality of the evidence in this

1 case, and, furthermore, without considering the  
2 totality of all of the Illinois law applicable  
3 to this case.

4 Mr. Ferguson has prejudged  
5 Detective March without you and Mr. Brown  
6 hearing one word from Detective March. And I'm  
7 not making this up because the report clearly  
8 indicates the statements the Task Force came up  
9 with regarding the McDonald shooting under the  
10 section in the report they call "The Tipping  
11 Point."

12 You know what these statements are  
13 because I referenced these statements made by  
14 the Task Force in the letter I sent to  
15 Mr. Ferguson and both of you gentlemen prior to  
16 today.

17 I'm asking again, sir, that the  
18 Inspector General's Office recuse themselves from  
19 this investigation. Detective March is entitled  
20 to a fair, impartial, and independent  
21 investigator. He's not getting it, sir, from  
22 Mr. Ferguson and his agents when Mr. Ferguson  
23 has put his name on that report that clearly  
24 indicates conclusions.

1           We disagree with those conclusions,  
2     but that's not the point. Mr. Ferguson has made  
3     judgements on this matter without the benefit of  
4     knowing all the evidence. That is wrong. That  
5     is prejudice to Detective March, and I  
6     respectfully request that you recuse yourself  
7     and other agents of the Inspector General from  
8     conducting this investigation.

9           MR. NEUMER: OIG's position is there is no  
10    conflict that impairs our office's ability to  
11    conduct a fair, impartial investigation, and,  
12    accordingly, there's no basis for our office to  
13    recuse itself.

14          MR. MCKAY: I'm not certain that we would  
15    call it a conflict per se. I'm clearly stating  
16    Mr. Ferguson has prejudged Detective March and  
17    other police officers in this case.

18                 Can you reconcile for me and  
19    Detective March how Mr. Ferguson can put his  
20    name on a report indicating that reports of the  
21    shooting were superficial and false, that  
22    certain activity happened that we -- and the  
23    evidence shows did not take place, a conclusion  
24    that on-scene officers repeated the same false

1 narrative they allege Officer Van Dyke made, and  
2 that these officers uniformly said that McDonald  
3 posed an imminent threat immediately before  
4 Van Dyke shot him?

5 Your boss and others, including  
6 Ms. Lightfoot, suggest that's not true. So can  
7 you tell me, sir, how can this office -- how can  
8 your office reconcile these statements your boss  
9 is owning up to and, yet, being fair, impartial,  
10 and independent in this case?

11 Unless, sir, are you saying the  
12 Inspector General is not duty-bound to be a  
13 fair, impartial, and independent investigator in  
14 this case?

15 MR. NEUMER: OIG's position is that our  
16 office's ability to conduct a fair and impartial  
17 investigation has not been impaired and,  
18 therefore, there's no reason for our recusal.

19 MR. MCKAY: All right. You know, sir, that  
20 a grievance has been filed by the Fraternal  
21 Order of Police. That grievance is pending  
22 before an arbitrator. The grievance issues were  
23 raised in regards to this investigation.

24 The Fraternal Order of Police had

1 filed a grievance and injunction regarding this  
2 investigation and, yet, the Inspector General  
3 for the City of Chicago refused to postpone this  
4 investigation. Is that correct?

5 MR. NEUMER: There has been a grievance  
6 filed.

7 MR. MCKAY: I am prepared to begin, but I  
8 must state for the record, as Detective March's  
9 legal counsel, I am advising Detective March to  
10 refuse to answer any questions without a direct  
11 order from one of his superior officers.

12 MR. NEUMER: Okay. As we talked about  
13 previously -- correct me if I'm wrong -- you  
14 agreed to have that order from a superior  
15 officer come via telephone; is that correct?

16 MR. MCKAY: I have no objection to that.

17 MR. NEUMER: And at this time I am going to  
18 call Commander Robert Klimas of CPD.

19 MR. MCKAY: Can you spell Mr. Klimas' name  
20 for the record, please.

21 MR. NEUMER: Sure. It's K-l-i-m-a-s.

22 MR. MCKAY: Thank you.

23 (PHONE RINGING)

24 COMMANDER KLIMAS: Bob Klimas.

1 MR. NEUMER: Bob, this is Peter Neumer from  
2 the City of Chicago Inspector General's Office.

3 COMMANDER KLIMAS: Yes. How are you?

4 MR. NEUMER: Good. I am here in a room  
5 with Detective David March, an attorney,  
6 Investigator Kris Brown, and a court reporter,  
7 and we are conducting an interview of  
8 Detective March.

9 Having provided proper notice of that  
10 interview and proper notice of the allegations  
11 against him, Detective March is declining to  
12 answer our questions concerning the shooting of  
13 Laquan McDonald absent an order from a superior  
14 officer, so I am asking you to order  
15 Detective March to answer the OIG's questions  
16 concerning the shooting of Laquan McDonald.

17 COMMANDER KLIMAS: This is Commander Robert  
18 Klimas, K-l-i-m-a-s, Bureau of Internal Affairs,  
19 Chicago Police Department.

20 Detective March, I am giving you a  
21 direct order to answer all the questions posed  
22 to you today from the Office of Inspector  
23 General and answer them truthfully, okay?

24 THE WITNESS: Okay.

1 MR. NEUMER: Thank you, Commander.

2 COMMANDER KLIMAS: Thank you.

3 (WHEREUPON CALL WAS ENDED)

4 MR. McKAY: Thank you, Mr. Neumer.

5 MR. NEUMER: So first the advisement. I  
6 believe we read that to you, and we had asked  
7 you to sign that advisement prior to the  
8 statements Counsel made on the record.

9 Do you want to witness?

10 MR. McKAY: No. I'd just like a copy of  
11 that at some point.

12 MR. NEUMER: At some point. So none of the  
13 exhibits we put before you can go out of the  
14 room today, but you will be getting a copy of  
15 the transcript.

16 And, again, as we talked about, is it  
17 acceptable that we provide a copy of the  
18 transcript within two business days of our  
19 receipt of that transcript?

20 MR. McKAY: No, I thought what we talked  
21 about is that whenever the court reporter would  
22 prepare it, we would both get it at the same  
23 time.

24 MR. NEUMER: We would be --

1 MR. McKAY: The rule asked the court  
2 reporter to have it prepared within 72 hours of  
3 today.

4 MR. NEUMER: Exactly.

5 MR. McKAY: If she needs more time, I have  
6 no objection to her taking time to get it done  
7 and get it done right. I just want it -- and I  
8 believe Detective March is entitled to it at the  
9 same time the Inspector General's Office gets  
10 it.

11 MR. NEUMER: Well, he's entitled to it  
12 within 72 hours of today, so if he wants, he can  
13 get it within 72 hours of today.

14 What I was asking is if it would be  
15 acceptable for us to, instead, after our receipt  
16 of that transcript, provide it to you within two  
17 business days. But if you prefer to do -- to  
18 just have us give it to you within 72 hours, we  
19 can do that. It was just sort of as a  
20 convenience to the court reporter and our  
21 office --

22 MR. McKAY: I am being convenient to the  
23 court reporter. I want her to take as much time  
24 as she needs. You asked me if we could wait

1 until two days after you get it, and I'd like to  
2 know why.

3 MR. BROWN: And maybe I could speak to that  
4 part because this is my portion. I typically do  
5 the copying and the receipts related to the  
6 transcripts that go to the relative officers.  
7 We usually have asked for three days, but I can  
8 prepare it that day whenever I receive it.

9 So if I receive it from the court  
10 reporter's office, let's say on a Monday,  
11 9:00 a.m., I can have it turned around to you in  
12 a couple hours. That just takes me a little  
13 time to copy and get it to you.

14 MR. MCKAY: That's fine. Just -- I think  
15 what's fair is fair. We get it the same day you  
16 guys get it.

17 MR. BROWN: So it's fair, I can make that  
18 copy and provide it to you the same day.

19 MR. NEUMER: And the reason I was asking  
20 for 48 hours, sometimes Investigator Brown has  
21 to leave the office, so we might get the  
22 transcript or we might get it at the end of the  
23 day or something like that.

24 So if it's like two business days, we

1 will strive to get it to you within hours of  
2 when we get it. We want it in your hands as  
3 quickly as possible. That said, sometimes  
4 family issues come up, sometimes folks are out  
5 of the office, and it makes it difficult to  
6 do -- to have an immediate turnaround. And so  
7 that's why we asked for the 48 hours, the two  
8 business days, with the hopes we can get it to  
9 you the same day we can get it.

10 MR. MCKAY: So the court reporter only  
11 prepares one transcript?

12 MR. BROWN: That's the normal course, that  
13 we receive one transcript from the court  
14 reporter.

15 MR. MCKAY: If you can get it to me the  
16 same day you receive it, call me. I can pick it  
17 up from you.

18 MR. BROWN: If I get it at 4:55, it's going  
19 to be difficult to make the copy and do all the  
20 other administrative stuff. But if I get it  
21 12:00, 1:00, that's reasonable for me to get it  
22 down.

23 MR. MCKAY: That's fine.

24 MR. BROWN: Okay.

1 MR. NEUMER: All right. So we've got our  
2 Advisement of Rights marked as Exhibit 1 signed  
3 and witnessed.

4 And now what I'm going to do is mark  
5 a series of documents, put them on the record,  
6 and present them to Detective March to confirm  
7 that he received these exhibits on April 7th,  
8 2016.

9 BY MR. NEUMER:

10 Q. So what has previously been marked  
11 Exhibit 2 is a Notification of Interview for  
12 Detective March and it's dated April 7th, 2016.

13 MR. BROWN: And, Mr. McKay, before we go on  
14 to Exhibit 2, can we have the copy of the  
15 Advisement back.

16 MR. MCKAY: The one you just gave me?

17 MR. BROWN: Yes.

18 MR. MCKAY: Here.

19 MR. BROWN: Thank you.

20 MR. MCKAY: Before you begin your  
21 questioning, gentlemen, Detective March has  
22 something to put on the record.

23 THE WITNESS: Upon advice of counsel, I am  
24 refusing to answer any questions without the

1 direct order of a superior officer.

2 I would like to preface this  
3 statement with the following: I believe I am  
4 entitled to be informed of my Constitutional  
5 rights to remain silent. I have received no  
6 assurances from the Office of Inspector General  
7 that criminal charges are probable. Proceeding  
8 with this statement is in violation of the  
9 applicable Collective Bargaining Agreement, but  
10 I have been advised that I will lose my job if I  
11 refuse to provide a statement.

12 I am not giving this statement  
13 voluntarily but only because I am required to do  
14 so by a direct order of Commander Robert Klimas.  
15 I know that if I refuse to participate in this  
16 interview or refuse to answer certain questions,  
17 I can be disciplined or even fired; therefore,  
18 this statement is being compelled.

19 I'm asserting all of my rights under  
20 the Supreme Court case of Garrity versus  
21 New Jersey, and I am specifically objecting to  
22 any sharing or disclosure of this statement or  
23 its contents with any prosecutor's office such  
24 as the Cook County State's Attorney's Office or

1 the United States Attorney's Office.

2 I also object to the sharing or  
3 disclosure of this statement or its contents  
4 directly or indirectly with anybody else  
5 including but not limited to any other federal,  
6 state, or city agency and the media.

7 I am objecting that this interview is  
8 taking place before an arbitrator has decided  
9 the issues that were raised in regards to this  
10 investigation. The Fraternal Order of Police  
11 has filed a grievance and injunction regarding  
12 this investigation, and the Inspector General  
13 has refused to postpone this investigation.

14 Also, on the advice of counsel, I am  
15 making the following additional objections: I  
16 am objecting to the fact that the City of  
17 Chicago Inspector General's Office has refused  
18 to identify all of my complainants if they  
19 exist.

20 Under City ordinance, Collective  
21 Bargaining Agreements, and my due process  
22 rights, I am entitled to notice of the nature of  
23 the allegations against me and the identity of  
24 all complainants prior to any interview.

1           The Inspector General's Office has  
2   only advised me that Interim Superintendent  
3   John J. Escalante and, to a lesser degree,  
4   Sergeant S. Soria are the only complainants  
5   against me. This can't possibly be true because  
6   Escalante's letter to the Inspector General  
7   dated January 13, 2016, does not specifically  
8   allege or even suspect me of any misconduct.

9           Further, the letter refers to  
10   Sergeant Soria's memo of July 15th, 2015, which  
11   only alleges inattention to duty because of  
12   possible tampering with in-car camera mics and  
13   improper use of equipment, none of which applies  
14   to me, a detective assigned to investigate this  
15   police shooting.

16           I am left to wonder who is the source  
17   of the allegations now pending against me. I  
18   shouldn't have to do this because I have a right  
19   to know and confront my accusers. The Inspector  
20   General is violating my rights of due process by  
21   not specifically informing me of the person or  
22   persons making these specifics allegations. As  
23   such, I can only assume the true complainant is  
24   the City of Chicago's Inspector General.

1 I am entitled to an affidavit of any  
2 complainant who is not a sworn officer. I have  
3 not received one in this case. I am not waiving  
4 the requirement of an affidavit, therefore, I am  
5 objecting to the City of Chicago Inspector  
6 General's Office making allegations against me  
7 and conducting an investigation into its own  
8 allegations.

9 Finally, I am objecting to the  
10 Inspector General's Office conducting any  
11 investigation of this shooting because the  
12 Inspector General of Chicago is prejudiced  
13 against me.

14 This prejudice is evidenced by his  
15 participation on the Police Accountability Task  
16 Force and their report released April 13th,  
17 2016. This report includes findings made  
18 without the benefit of hearing my sworn  
19 testimony, considering all of the evidence in  
20 this case, and considering all of the applicable  
21 law in this case.

22 The Inspector General has prejudged  
23 this case. As such, he and his agents cannot be  
24 fair, impartial, and independent investigators

1 in this matter.

2 This objection also applies to  
3 Lori E. Lightfoot, president of the Chicago  
4 Police Board, who served as the chair of the  
5 Police Accountability Task Force.

6 MR. MCKAY: Thank you, Mr. Neumer.

7 MR. NEUMER: Having responded previously to  
8 the objections raised in Detective March's  
9 statement, we'll continue with the marking of  
10 exhibits.

11 BY MR. NEUMER:

12 Q. I think we were at what has  
13 previously been marked as Exhibit 2, which is a  
14 Notification of Interview to Detective March  
15 dated April 7th, 2016.

16 (WHEREUPON, OIG Exhibit No. 2 was  
17 tendered to the witness.)

18 BY MR. NEUMER:

19 Q. I would ask Detective March, have you  
20 seen Exhibit 2 previously prior to today?

21 A. Yes.

22 Q. And did BIA provide you with this  
23 Exhibit 2 document on or about April 7th, 2016?

24 A. Yes.

1 Q. I am now going to hand you what has  
2 been previously marked as Exhibit 3. This is a  
3 Notification of Allegations, name of accused,  
4 David March.

5 (WHEREUPON, OIG Exhibit No. 3 was  
6 tendered to the witness.)

7 BY MR. NEUMER:

8 Q. Have you seen this Exhibit 3 document  
9 prior to today?

10 A. Yes.

11 Q. And did BIA provide you with this  
12 document on or about April 7th, 2016?

13 A. Yes.

14 Q. And is that your signature on the  
15 last page, Page 4 of Exhibit 3?

16 A. Yes.

17 Q. And also I'd ask, was your signature  
18 at the bottom of the only page of Exhibit 2?

19 A. Yes.

20 Q. And we will have to ask for all these  
21 exhibits back, so if you could keep them  
22 separate from everything else.

23 I am now going to hand you what has  
24 been previously marked Exhibit 4. This is a

1 Receipt Form dated April 7th, 2016.

2 (WHEREUPON, OIG Exhibit No. 4 was  
3 tendered to the witness.)

4 BY MR. NEUMER:

5 Q. Detective March, have you seen this  
6 Receipt Form prior to today?

7 A. Yes.

8 Q. And did BIA provide you with this  
9 Receipt Form on or about April 7th, 2016?

10 A. Yes.

11 Q. And is your signature on -- is that  
12 your signature on Page 2 of the Exhibit 4  
13 Receipt Form?

14 A. Yes.

15 Q. I am now going to hand you a copy of  
16 what has previously been marked Exhibit 5. This  
17 is a copy of a March 16, 2015 Case Supplementary  
18 Report with an RD number of HX475653 and a  
19 supplementary ID of 10992767, CASR301.

20 MR. MCKAY: What number is this,  
21 Mr. Neumer?

22 MR. NEUMER: This is Exhibit 5.

23 MR. BROWN: I apologize. This is going to  
24 take a minute. Things got kind of out of whack

1 here.

2 MR. MCKAY: Take your time.

3 (WHEREUPON, OIG Exhibit No. 5 was  
4 tendered to the witness.)

5 BY MR. NEUMER:

6 Q. So we're handling you a Case  
7 Supplementary Report with a sup ID of 10992767  
8 CASR301.

9 Detective March, have you seen this  
10 Exhibit 5 document prior to today?

11 A. This does not -- I've got at least  
12 one missing page and duplicates of some other  
13 pages.

14 MR. MCKAY: My copy is missing a number of  
15 pages as well.

16 MR. NEUMER: Okay. Why don't we go off the  
17 record. The time is 10:52.

18 (WHEREUPON, a recess was had.)

19 MR. NEUMER: The time is 10:57 a.m. We're  
20 back on the record.

21 BY MR. NEUMER:

22 Q. Detective March, if you could look  
23 through that Exhibit 5 now and see whether it is  
24 a full and complete copy of the document you

1 were provided on or about April 7th, 2016 by  
2 BIA.

3 A. I have two Page 10s, so I think maybe  
4 somebody is missing a Page 10.

5 MR. NEUMER: We'll take back the Page 10.  
6 BY MR. NEUMER:

7 Q. Other than the duplicate Page 10,  
8 does that appear to be a full and complete copy  
9 of the document you were provided by BIA on  
10 April 7th, 2016?

11 A. Yes.

12 MR. MCKAY: I have a question, Mr. Neumer.

13 MR. NEUMER: Sure.

14 MR. MCKAY: This exhibit in the right-hand  
15 has a log number and an attachment number. That  
16 was not placed there by Detective March. Can  
17 you identify what those markings are?

18 MR. NEUMER: I believe that is a stamp that  
19 was placed there by the Independent Police  
20 Review Authority.

21 MR. MCKAY: Okay. Thank you.

22 BY MR. NEUMER:

23 Q. I am now going to be handing you what  
24 is previously marked Exhibit 6, which a copy of

1 a March 16, 2015 --

2 A. Should this go in the pile that's  
3 going back --

4 Q. Yes. Yes.

5 A. -- are we going to be referring back  
6 to --

7 Q. Well, we will. We will be referring  
8 to --

9 A. Right now it just goes in the pile?

10 Q. Right now it goes in the pile --

11 MR. BROWN: We'll give it back to you  
12 later.

13 BY MR. NEUMER:

14 Q. Yeah, and we will be referring to  
15 that one.

16 So I'll be handing you a copy marked  
17 Exhibit 6 of a March 16, 2015 Case Supplementary  
18 Report for RD number HX475653 with a  
19 supplementary ID 10988891 CASR339.

20 (WHEREUPON, OIG Exhibit No. 6 was  
21 tendered to the witness.)

22 BY MR. NEUMER:

23 Q. Have you seen the document marked  
24 Exhibit 6 prior to today, Detective March?

1 A. Yes.

2 Q. And did BIA provide you with the  
3 Exhibit 6 document on or about April 7th, 2016?

4 A. I believe that was on the disk that  
5 they provided me.

6 Q. I'm now going to be handing you  
7 what's previously been marked Exhibit 7. This  
8 is a copy of Case Incident Report for RD Number  
9 HX486155 with the case ID 9837884 CASR229.

10 (WHEREUPON, OIG Exhibit No. 7 was  
11 tendered to the witness.)

12 BY MR. NEUMER:

13 Q. Have you seen this Exhibit 7 document  
14 prior to today, Detective March?

15 A. Yes.

16 Q. And was this one of the documents  
17 that BIA provided you with on or about  
18 April 7th, 2006?

19 A. Yes, I believe it was on the disk.

20 Q. I am now going to be handing you what  
21 has previously been marked as Exhibit 8, which  
22 is a copy of your October 20th, 2014, General  
23 Progress Report for RD Number HX475653,  
24 concerning your October 20th, 2014, interview of

1 Officer Dora Fontaine.

2 (WHEREUPON, Exhibit OIG No. 8 was  
3 tendered to the witness.)

4 BY MR. NEUMER:

5 Q. Have you seen this Exhibit 8 document  
6 prior to today?

7 A. Yes.

8 Q. And did BIA provide you with a copy  
9 of this document on or about April 7th, 2016?

10 A. Yes, I believe that was on the disk.

11 MR. MCKAY: This is your Exhibit Number 8,  
12 sir?

13 MR. NEUMER: Exhibit 8. Yes.

14 MR. MCKAY: Thank you.

15 BY MR. NEUMER:

16 Q. And I am now going to be handing you  
17 what is marked as exhibit -- previously been  
18 marked as Exhibit 9, which is a copy of your  
19 October 20th, 2014, General Progress Report for  
20 RD Number HX475653 concerning your October 20th,  
21 2014, interview of Officer Janet Mondragon.

22 (WHEREUPON, OIG Exhibit No. 9 was  
23 tendered to the witness.)

24

1 BY MR. NEUMER:

2 Q. Have you seen this Exhibit 9 document  
3 prior to today, Detective March?

4 A. Yes.

5 Q. And did BIA provide you with a copy  
6 of this document on or about April 7th, 2016?

7 A. Yes, I believe this was on the disk  
8 also.

9 Q. I am now going to be handing you  
10 what's previously been marked as Exhibit 10,  
11 which is a copy of your October 20th, 2014,  
12 General Progress Report for RD Number HX475653  
13 concerning your October 20th, 2014, interviews  
14 of Officer Jason Van Dyke.

15 (WHEREUPON, OIG Exhibit No. 10 was  
16 tendered to the witness.)

17 BY MR. NEUMER:

18 Q. Have you seen the document marked as  
19 Exhibit 10 prior to today?

20 A. Yes.

21 Q. And did BIA provide you with this  
22 document on or about April 7th, 2016?

23 A. Yes, I believe these were on the  
24 disk.

1 MR. McKAY: I don't have an objection to  
2 how you mark your exhibits -- you're entitled to  
3 do that -- just so the record is clear that your  
4 Exhibit 10, sir, actually consists of two  
5 separate GPRs. One was three pages that was  
6 drafted on or about October 20th, 2014, and the  
7 other, the remaining page, is a separate GPR  
8 that was drafted on or about October 21st of  
9 2014. You're including all these GPRs into one  
10 exhibit; is that correct?

11 MR. NEUMER: I believe if that's all in  
12 Exhibit 10, that is correct.

13 MR. McKAY: All right. Thank you.

14 BY MR. NEUMER:

15 Q. And, Detective March, you received  
16 both of those GPRs on April 7, 2016; is that  
17 correct?

18 A. All four pages, correct.

19 Q. All four pages. Thank you.

20 I am now going to be handing you what  
21 has previously been marked as Exhibit 11, which  
22 is a copy of Evidence Submission Form 54818.E  
23 for incident RD Number HX475653.

24

1 (WHEREUPON, OIG Exhibit No. 11 was  
2 tendered to the witness.)

3 BY MR. NEUMER:

4 Q. Have you seen a copy of the  
5 Exhibit 11 document prior to today,  
6 Detective March?

7 A. Yes.

8 Q. And did BIA provide you with a copy  
9 of this document on or about April 7th, 2016?

10 A. Yes, I believe this was on the disk.

11 Q. I am now going to be handing you what  
12 has been previously marked as Exhibit 12, which  
13 is a copy of Evidence Submission Form 54818.F  
14 for incident number RD Number HX475653.

15 (WHEREUPON, OIG Exhibit No. 12 was  
16 tendered to the witness.)

17 BY MR. NEUMER:

18 Q. Have you seen this Exhibit 12  
19 document prior to today, Detective March?

20 A. Yes.

21 Q. And did BIA provide you with a copy  
22 of this document on or about April 7th, 2016?

23 A. Yes.

24 Q. And, lastly, I will be handing you

1 what has been previously marked as Exhibit 13,  
2 which is a copy of a Major Incident Notification  
3 Detail for incident number 73204.

4 (WHEREUPON, OIG Exhibit No. 13 was  
5 tendered to the witness.)

6 BY MR. NEUMER:

7 Q. Have you seen a copy of this document  
8 prior to today, Detective March?

9 A. Yes.

10 Q. And did BIA provide you with a copy  
11 of this Exhibit 13 document on or about  
12 April 7th 2016?

13 A. Yes.

14 Q. And I think -- if you could just put  
15 those off to the side -- we'll get them back and  
16 then we will, at the appropriate time, provide  
17 you with the relevant documents so that way it  
18 will make things just go a little smoother.

19 In order to prepare for today's  
20 interview, did you review the materials that BIA  
21 provided you on or about April 7th 2016?

22 A. Yes.

23 Q. And the materials that BIA provided  
24 you on April 7th 2016, those also included video

1 from the in-car video systems of Vehicles 813  
2 Robert and 845 Robert; is that correct?

3 A. Yes.

4 Q. And that I think it was a DVD also  
5 included video from a Dunkin' Donuts security  
6 camera as well; is that correct?

7 A. Yes.

8 Q. And did you review those videos, the  
9 813 Robert, 845 Robert dash cam videos, and the  
10 Dunkin' Donuts security video prior to today's  
11 interview?

12 A. Yes.

13 Q. Since receiving our Notice of  
14 Interview, did you review any materials other  
15 than the materials we provided you?

16 A. Yes.

17 Q. What did you review other than the  
18 materials we provided you?

19 A. I looked through most of the official  
20 investigative file of the Chicago Police  
21 Department regarding this incident.

22 Q. So you looked through CPD's file on  
23 the Laquan McDonald shooting?

24 A. Yes.

1 Q. Anything else that you recall?

2 A. I did some searching on the internet  
3 to find some relevant statutes, the language of  
4 the Illinois revised statutes -- or Illinois  
5 compiled statutes, and I think that's about it.

6 Q. Aside from your attorney --

7 A. Oh, excuse me.

8 Q. Go ahead.

9 A. I also reviewed some written Chicago  
10 Police Department directives regarding policy  
11 and procedure.

12 Q. Do you recall what policy and  
13 procedure directives you were reviewing?

14 A. Basically the subject matter was use  
15 of force.

16 Q. Aside from your attorney, who did you  
17 speak to in preparation for this interview?

18 A. No one.

19 Q. We're going to start off with a  
20 little background. Could you state for the  
21 record your name, star number, and current unit  
22 of assignment.

23 A. My name is Detective David March. My  
24 star number is 20563, and I'm assigned to

1 Unit 610, which is called the Bureau of  
2 Detectives Area Central.

3 Q. What was your unit of assignment on  
4 October 20th, 2014?

5 A. The same as it is today.

6 Q. And were you on the same watch then  
7 as you are today?

8 A. Well, today I'm working days to  
9 accommodate this interview.

10 Q. Okay.

11 A. I normally work afternoons.

12 Q. And were you working afternoons as of  
13 October 20th, 2014?

14 A. Yes.

15 Q. And what was your general work hours?

16 A. From 4:00 p.m. to 1:00 a.m.

17 Q. What was your chain of command as of  
18 October 20th, 2014?

19 A. I was on what's called a homicide  
20 team that was supervised by Sergeant Daniel  
21 Gallagher. Our unit has two lieutenants,  
22 Lieutenant Anthony Wojcik and Lieutenant Osvaldo  
23 Valdez and then --

24 Q. Before you -- is it possible for you

1 to spell those names for the record if you know  
2 them?

3 A. Sure. Daniel Gallagher is  
4 G-a-l-l-a-g-h-e-r; lieutenant Anthony Wojcik is  
5 W-o-j-c-i-k; Lieutenant Osvaldo Valdez is  
6 V-a-l-d-e-z. And then our commander at that  
7 time was Commander Eugene Roy, R-o-y.

8 Q. Who was the deputy chief of the  
9 Bureau of Detectives at that time?

10 A. Anthony Riccio, R-i-c-c-i-o.

11 Q. And who was the bureau detective  
12 chief?

13 A. John Escalante.

14 Q. Is that E-s-c-a-l-a-n-t-e?

15 A. I believe that's correct.

16 Q. Okay. Do you know who the District 8  
17 commander was as of October 20th, 2014?

18 A. I don't recall.

19 Q. Was it James O'Donnell?

20 A. It could have been.

21 Q. Okay. Who was the Area Central  
22 deputy chief?

23 A. Of patrol?

24 Q. Uh-huh.

1 A. David McNaughton,  
2 M-c-N-a-u-g-h-t-o-n.

3 Q. And who was the bureau patrol chief?

4 A. I don't recall at that time.

5 Q. Does Wayne Gulliford sound right?

6 A. He was the chief of patrol at one  
7 time. If -- it could be that day, I don't  
8 recall.

9 Q. What's your personal cell phone  
10 number?

11 MR. MCKAY: Objection, relevance.

12 MR. NEUMER: If Detective March had any  
13 communications with folks.

14 MR. MCKAY: Do you have records that  
15 Mr. Marback may have requested in December of  
16 2015? If so, we'd like to see them now.

17 BY MR. NEUMER:

18 Q. Now, I mean, we're -- the question's  
19 a good question. We're asking for your personal  
20 cell phone number. You can refuse to answer,  
21 but --

22 MR. MCKAY: He is not going to refuse a  
23 direct order. He has been ordered. He will  
24 comply with your questions. I'm just stating

1 for the record that I object to the relevance of  
2 this question. His personal cell phone? Are  
3 you talking about today? Are you talking about  
4 October 2014?

5 BY MR. NEUMER:

6 Q. Both. The personal cell phone today,  
7 and then the next question will be is that the  
8 same cell phone number you had as of  
9 October 20th, 2014.

10 MR. McKAY: I object to the relevance of  
11 that.

12 BY THE WITNESS:

13 A. 312-735-6630.

14 BY MR. NEUMER:

15 Q. And is that the same cell phone  
16 number you had as of October 20th, 2014?

17 A. Yes.

18 Q. I want to talk to you about grand  
19 jury proceedings. Were you summoned to give  
20 testimony before a grand jury regarding the  
21 McDonald shooting?

22 A. I did receive, I believe, a subpoena  
23 for the federal grand jury in this matter.

24 Q. And did you end up giving testimony

1 before a federal grand jury?

2 A. No, it was postponed.

3 Q. So you have not been before a federal  
4 grand jury in this matter?

5 A. No.

6 Q. No state grand jury either?

7 A. No.

8 Q. Have you been interviewed by the FBI  
9 in connection with the McDonald shooting?

10 A. No.

11 Q. I want to talk to you about the night  
12 of October 20th, 2014. So I'm going to ask you  
13 to walk us through your actions that night in  
14 terms of your response to the shooting of Laquan  
15 McDonald.

16 A. I --

17 MR. McKAY: Object to the vagueness of the  
18 question, Mr. Neumer. Walk us through your  
19 actions. When, where, who? He is -- you know  
20 from your review of his reports, his role in  
21 this case as a responding detective assigned to  
22 investigate, correct?

23 MR. NEUMER: Mm-hm.

24 MR. McKAY: So I would ask that unless

1 Detective March understands the question, if you  
2 could be more specific, that's all I'm asking.

3 MR. NEUMER: Sure. And we're just looking  
4 to get a narrative --

5 MR. McKAY: All right.

6 MR. NEUMER: -- so I'm happy to provide  
7 some prompts --

8 MR. McKAY: If he's comfortable with your  
9 question, he should --

10 BY MR. NEUMER:

11 Q. I'll start out very -- like where  
12 were you when you first got notice of the  
13 shooting?

14 A. I would also like to add in that  
15 reading some of the things that are coming out  
16 of the Inspector General's Office, there's  
17 allegations regarding intentional omissions.

18 Now you're asking me to recall in  
19 general what I did a year and a half ago, and if  
20 I don't recall anything, that does not indicate  
21 an intentional omission. And if I remember  
22 different things that I did and out of order,  
23 you know, I'm not -- I don't want to be accused  
24 later on under oath that I said I did this first

1 and that first and now it turns out that I did  
2 this first, that second.

3 Q. Right, I think -- I understand what  
4 you're saying, and so I'm happy to provide some  
5 prompts. We're not looking to play gotcha and,  
6 you know, you didn't say this or you put it out  
7 of order or anything like that.

8 And also if you want to refer to any  
9 of the exhibits at any time that we provide you  
10 to refresh your recollection, we're just looking  
11 to sort of get the basic understanding of your  
12 whereabouts, your actions on the night of  
13 October 20th, 2014.

14 So if you don't recall, you don't  
15 recall. And you if you want to take a moment in  
16 response to any questions that are asked, that's  
17 totally fine, too.

18 So I'll start it this way and say  
19 where were you on the night of October 20th,  
20 2014, when you first got notice of the shooting  
21 of Laquan McDonald?

22 A. I think I was in the office at my  
23 unit.

24 Q. And where is that office located?

1 A. 5101 South Wentworth Avenue.

2 Q. So you're at Area Central, can I say,  
3 headquarters?

4 A. Yes.

5 Q. So you were at Area Central  
6 headquarters. You were on duty?

7 A. Yes.

8 Q. And so how did you receive this  
9 notice of the shooting?

10 A. I believe Sergeant Gallagher called  
11 me on the telephone.

12 Q. On your work phone or...

13 A. I don't recall.

14 Q. So you think --

15 A. And I don't have a work phone.

16 Q. Okay.

17 A. My cell phone is my phone. I pay for  
18 it. It's entirely mine.

19 Q. Okay. So you have no like --

20 A. It's not required equipment that's  
21 required by the police department. It's not  
22 supplied to me by the police department.

23 Q. And so do you have a desk phone at --

24 A. There are phones in the office. I

1 don't recall if Gallagher called the office or  
2 called my cell phone, I don't recall.

3 Q. But you're pretty sure it was  
4 Detective -- sorry, pretty sure it was Sergeant  
5 Gallagher who --

6 A. To the best of my recollection, I got  
7 a -- Sergeant Gallagher notified me of the  
8 assignment by telephone.

9 Q. Okay. And do you recall what he said  
10 to you?

11 A. Something to the effect of that there  
12 was a police officer-involved shooting and that  
13 you was going to be -- that it was going to be  
14 assigned to me.

15 Q. So after you get that phone call,  
16 what do you do?

17 A. I proceeded to the scene.

18 Q. So you proceed in a CPD vehicle to  
19 40th and Pulaski, approximately?

20 A. Correct.

21 Q. Was anyone with you when you drove to  
22 the scene of the shooting?

23 A. No, I drove there myself.

24 Q. Did you go immediately once you got

1 that phone call to the scene of the shooting?

2 A. Yes.

3 Q. And once you get to the scene, what's  
4 the first thing you do?

5 A. I believe I saw Sergeant Gallagher at  
6 the scene, so I went and checked in with him.

7 Q. Did you have a conversation with  
8 Sergeant Gallagher?

9 A. Just very briefly.

10 Q. What did he -- did he give you any  
11 details, or what did he say to you?

12 A. The main -- my main interest at that  
13 time was where were the major participants of  
14 the incident, if you will, where were they  
15 located at.

16 Q. Sure.

17 A. Because as the detective assigned, I  
18 wanted to identify them and then start from  
19 there. Because when I arrived to the scene, I  
20 had no idea what happened or where to start the  
21 investigation.

22 Q. And just to back up really quickly.  
23 How long do you think it took you to drive to  
24 the scene of the shooting from Area Central?

1 A. I don't recall. I mean, a guess  
2 would be 20 minutes or so.

3 Q. Was there any documentation of when  
4 you arrive, like what time you arrived at the  
5 scene of the shooting?

6 A. There might be a General Progress  
7 Report where I noted the time I arrived.

8 Q. Do you have any independent  
9 recollection of what time you arrived at the  
10 scene of the shooting?

11 A. No.

12 Q. So you get to the scene. Where did  
13 you park your vehicle?

14 A. On Pulaski Road.

15 Q. Do you recall whether it was on the  
16 east side or the west side, north of 40th, south  
17 of 40th?

18 A. Initially when I arrived I parked the  
19 police vehicle on the west side of the street at  
20 the west curb of the southbound lanes.

21 Q. West curb of the southbound lanes on  
22 Pulaski. Okay. So is it near the intersection  
23 of Pulaski and 40th then?

24 A. I think I parked a short distance

1 north of the Burger King restaurant building.

2 Q. Okay. So you get there, you go to --  
3 you find Sergeant Gallagher, and you have a  
4 brief conversation with him. And then after  
5 that conversation, what's the next thing do you?

6 A. I located the officer involved in the  
7 incident, Officer Jason Van Dyke.

8 Q. And did you speak to Officer Van Dyke  
9 then?

10 A. Yes.

11 Q. And just to back up again. When you  
12 arrived at the scene, do you know if Laquan  
13 McDonald was still at the scene?

14 A. I really don't remember seeing an  
15 ambulance at the scene, so I think the ambulance  
16 may have already left with him on the way to the  
17 hospital.

18 Q. Can you just describe the scene when  
19 you first arrived as best you recall it. So  
20 you're pulling up, you're parking close to the  
21 Burger King. What does the scene look like when  
22 you arrive?

23 A. There are a lot of police personnel  
24 present and police vehicles at the scene.

1 Officers were -- if they hadn't already, they  
2 were in the process of establishing a perimeter  
3 to isolate the scene and protect it.

4 I believe crime scene tape was being  
5 utilized as well as police vehicles. I mean,  
6 Pulaski was a wide street, so, again, there was  
7 a lot of police personnel and a lot of police  
8 vehicles.

9 Q. So after you talked a Sergeant  
10 Gallagher, you located Officer Van Dyke and fair  
11 to say you have a conversation with  
12 Officer Van Dyke?

13 A. Yes.

14 Q. What's the nature of that  
15 conversation?

16 A. First I introduced myself to him and  
17 told him who I was and that I was the detective  
18 assigned to do the immediate follow-up  
19 investigation. I asked him if he was okay, and  
20 once he answered that he was okay, I began to  
21 talk to him about what had occurred.

22 Q. And so he was providing a narrative  
23 of what occurred prior and during the shooting?

24 A. Yes.

1 Q. Were you taking notes during that  
2 conversation?

3 A. At times I was, yes.

4 Q. I'm going to direct your attention to  
5 what was previously marked as Exhibit 10, and  
6 then I'm going to ask you to look at the first  
7 three pages of Exhibit 10.

8 And this is a General Progress  
9 Report. The date of the original case report --  
10 we'll just give you this to keep everyone on the  
11 same page here.

12 And, again, asking you to look at the  
13 first three pages of that General Progress  
14 Report -- the Exhibit 10, General Progress  
15 Report.

16 A. Right.

17 Q. Are these notes in this Exhibit 10  
18 document that you were taking during your  
19 conversation -- the conversation you just  
20 described with Officer Van Dyke?

21 A. No.

22 Q. Did you take these notes later on at  
23 the scene?

24 A. Yes.

1 Q. So during this initial conversation  
2 with Officer Van Dyke, you mentioned you were  
3 taking notes intermittently at some points  
4 during that conversation?

5 A. Yes.

6 Q. Were you taking those on a notepad,  
7 or how were you taking those notes?

8 A. On a pad of General Progress Reports.

9 Q. On a pad of General Progress Reports.  
10 Okay. So those notes of your initial  
11 conversation with Officer Van Dyke, did those  
12 get put into a General Progress Report?

13 A. Yes, that's where I was writing those  
14 notes.

15 Q. But those notes aren't the notes that  
16 are in Exhibit 10, right, the first three pages?

17 A. Correct.

18 Q. So where would we find those notes  
19 that you were taking during that initial  
20 conversation with Officer Van Dyke?

21 A. The same place I assume you found  
22 these in the investigative file where all of the  
23 General Progress Reports are.

24 Q. So there should be a separate General

1 Progress Report of your initial conversation  
2 with Officer Van Dyke?

3 A. There is at least one additional  
4 General Progress Report regarding  
5 Officer Van Dyke. I'm pretty sure.

6 Q. So -- and now I'll ask you to look  
7 through all Exhibit 10. There's four pages.  
8 There's a report dated October 20th, 2014, and  
9 one dated October 21st, 2014.

10 You believe that there is another  
11 General Progress Report reflecting notes of your  
12 initial conversation that -- with  
13 Officer Van Dyke that's not included in these  
14 Exhibit 10 documents?

15 A. Yes.

16 Q. Okay. Do you recall what  
17 Officer Van Dyke told you in that initial  
18 conversation?

19 A. It was basically the same thing he  
20 said all along that evening. He and his  
21 partner, Joseph Walsh, responded to a call for  
22 assistance from another unit regarding a subject  
23 with a knife, who was armed with a knife.

24 A unit with a Taser had been

1 requested. And subsequent to that, that unit  
2 was following the subject west -- or eastbound  
3 on 40th Street, and at one point the subject  
4 popped the tire of that police vehicle, meaning  
5 that he had slashed the tire with the knife  
6 causing it to go flat.

7 And then subsequently to that --  
8 subsequent to that, Officer Van Dyke and Walsh,  
9 in their police vehicle, they were proceeding  
10 northbound on Pulaski, turned westbound onto  
11 40th Street. And at that point they saw a black  
12 male subject who's now known as Laquan McDonald  
13 running eastbound through a -- the Burger King  
14 parking lot on the north side of the Burger King  
15 building. He was being pursued by, I believe it  
16 was, Officer Gaffney in the police vehicle with  
17 the flat tire and Officer McElligott on foot.

18 Officer Walsh was driving their  
19 police vehicle. He was able to get closer to  
20 Laquan McDonald, and they actually became then  
21 the primary or the first pursuit vehicle.

22 Officer Walsh positioned their police  
23 vehicle between Laquan McDonald, who would have  
24 been on the left of the vehicle, and the Burger

1 King restaurant on the right to keep him from  
2 running into the Burger King where there were  
3 civilians present.

4 McDonald ran out onto the street onto  
5 Pulaski Road and then began to run and then  
6 subsequently walk southbound in the southbound  
7 lanes of Pulaski Road.

8 Q. And just to pause you here. Is this  
9 all information that Officer Van Dyke provided  
10 you in that initial conversation at that scene  
11 of the shooting?

12 A. Yes.

13 Q. Okay. Continue.

14 A. Officer Walsh, again driving their  
15 police vehicle -- pursued McDonald southbound on  
16 Pulaski Road. McDonald was more or less in the  
17 southbound lanes. Walsh drove across the median  
18 into the northbound lanes.

19 And now there was a Dunkin' Donuts  
20 restaurant on the east side of Pulaski Road.  
21 And, again, Walsh positioned the police vehicle  
22 between McDonald and their police vehicle to  
23 prevent him from going towards the Dunkin'  
24 Donuts restaurant, which, again, there were

1 civilians present.

2           There was another police vehicle  
3 coming northbound which was either in the  
4 left-hand northbound lane or maybe it had even  
5 gone into the median. I don't remember exactly  
6 where he said it was. They drove to the left of  
7 that vehicle and McDonald -- they went east of  
8 that vehicle, and McDonald went west of that  
9 vehicle, again, continuing to proceed  
10 southbound.

11           Before they passed that vehicle, when  
12 they -- prior to -- when Walsh had positioned  
13 the vehicle between McDonald and the Dunkin'  
14 Donuts, Van Dyke said he had actually opened the  
15 right front passenger door of their police  
16 vehicle to exit and confront McDonald. And  
17 Walsh told him something to the effect that they  
18 were too close; wait until they get further  
19 ahead of him.

20           So Walsh then drove around the second  
21 police vehicle further south of McDonald and  
22 then stopped the police vehicle. They both,  
23 Van Dyke and Walsh, exited their vehicle, drew  
24 their weapons.

1 Van Dyke mentioned to me that from  
2 the first time he saw McDonald in the Burger  
3 King parking lot running eastbound, he observed  
4 a knife in McDonald's right hand and that's when  
5 they exited their police vehicle as McDonald was  
6 now coming -- continuing southbound in the  
7 southbound lanes of Pulaski Road, he still had  
8 that knife in his right hand.

9 Both Van Dyke and Walsh had their  
10 weapons drawn. They pointed them at McDonald,  
11 and Van Dyke said he shouted to McDonald  
12 multiple times, "Drop the knife. Drop the  
13 knife." McDonald never made any kind of  
14 movement that indicated he was going to drop the  
15 knife or surrender.

16 He continued walking generally in a  
17 southbound direction, and when he got  
18 approximately -- I'm guessing here. I don't  
19 recall. I'm not reading his statement. I think  
20 somewhere between 10 and 15 feet from Van Dyke,  
21 Van Dyke said McDonald turned directly towards  
22 Van Dyke and began to bring the knife in his  
23 right hand up and point it at Van Dyke.

24 Van Dyke said it was at that moment

1 that he felt McDonald was beginning to attack  
2 him with the knife. He felt his life was in  
3 danger and so he fired his handgun at McDonald  
4 in defense of his life.

5 Q. And so that's -- that was the  
6 narrative that Officer Van Dyke provided you  
7 during your initial conversation with him on the  
8 scene?

9 A. Correct.

10 Q. When did you speak with  
11 Officer Van Dyke when you were taking notes, the  
12 notes that are in Exhibit 10, the first three  
13 pages of the Exhibit 10, the GPR dated  
14 October 20th, 2014, when did that conversation  
15 occur?

16 A. Again, when I first arrived at the  
17 scene, I had no idea what had happened, what had  
18 occurred, so I had no idea where to start the  
19 investigation, where to look for evidence, where  
20 to look for witnesses.

21 So I was just trying to get a quick  
22 read on the situation from Van Dyke so I would  
23 know where we want to look for evidence,  
24 witness, whatever -- to get some direction for

1 the investigation.

2 So I didn't take the time to write  
3 down everything he was telling me. I took a few  
4 quick notes identifying who he was so I could  
5 answer all the questions, what's the officer's  
6 name, because in this day and age, everybody  
7 from the lowest level supervisors up to the  
8 superintendent want information immediately. So  
9 I have to have that -- you know, "I don't know  
10 yet" is not an acceptable answer.

11 So I took down some basic notes  
12 initially, and then I kind of rushed Van Dyke  
13 through the story again so I could get our  
14 investigative efforts moving in whatever  
15 direction they needed to go.

16 Q. I got you --

17 A. And it was later on, once we had most  
18 of the facts, that I took the time to stand  
19 there with him and actually, you know, write  
20 down the story so I accurately had what he  
21 remembered.

22 Q. Okay. So how much later do you think  
23 it was that you had a second conversation with  
24 Officer Van Dyke at the scene of the shooting

1 wherein you took the notes that are reflected in  
2 the Exhibit 10 October 20th GPR?

3 A. I have no idea how much time went by  
4 between the initial interview and when I  
5 actually had the time to actually stand there  
6 and write the information down.

7 Q. Where did your first conversation  
8 with Officer Van Dyke occur?

9 A. Right near the -- where their police  
10 vehicle was sitting in the street.

11 Q. So was he still in his vehicle?

12 A. He was standing outside of it.

13 Q. And you were standing as well?

14 A. Yes.

15 Q. So you have your initial conversation  
16 with Officer Van Dyke, you take a couple notes,  
17 and he provided the narrative you just described  
18 to us; is that correct?

19 A. Correct.

20 Q. And then after you talk to  
21 Officer Van Dyke, what happens next? Who do you  
22 talk to next?

23 A. I then spoke with Officer Walsh.

24 Q. And was this -- well, let me first

1 ask you, when you first talked to  
2 Officer Van Dyke, was anyone else present during  
3 that conversation?

4 A. No.

5 Q. So just you and Officer Van Dyke.  
6 Then you speak to Officer Walsh?

7 A. Yes.

8 Q. And where did that conversation  
9 occur?

10 A. Nearby, near their police vehicle  
11 there.

12 Q. Was Officer Walsh sort of in the area  
13 when you were talking to Officer Van Dyke, or do  
14 you recall what he was doing when you were  
15 talking --

16 A. No, I don't know what Walsh was doing  
17 when I talked to Van Dyke.

18 Q. When you talked to Walsh, was  
19 Van Dyke present?

20 A. No.

21 Q. And so tell us about your  
22 conversation with Officer Walsh.

23 A. He relayed information that was  
24 basically similar to what Van Dyke had just told

1 me.

2 Q. And were you taking notes during your  
3 interview of Officer Walsh?

4 A. Again, I took some initial cursory  
5 notes.

6 Q. And so did he provide -- so he  
7 provided a narrative to you during that initial  
8 conversation?

9 A. Yes.

10 Q. And did you later come back to talk  
11 to Officer Walsh again?

12 A. Yes.

13 Q. Okay. And during that second  
14 conversation, you took notes that became a GPR;  
15 is that fair to say?

16 A. Yes.

17 Q. After you talked to Officer Walsh,  
18 who did you speak to next?

19 A. I spoke -- again, this is where I  
20 have no idea what happened step by step, first,  
21 second, third.

22 Q. Okay.

23 A. I spoke -- a number of times I  
24 consulted with my sergeant, Sergeant Gallagher,

1 to make sure he was aware of everything I  
2 learned, and he was telling me things that he  
3 learned like what hospital Laquan McDonald had  
4 been taken to --

5 Q. Let me pause you there. So as you're  
6 conducting your investigation at the scene of  
7 the shooting, you're having a series of  
8 conversations with Sergeant Gallagher; is that  
9 fair to say?

10 A. Yes.

11 Q. And so you were -- before I cut you  
12 off, you were walking me through some of those  
13 conversations. Can you continue on about what  
14 you were communicating with Sergeant Gallagher  
15 about.

16 A. I was letting him know what I had  
17 found out. He was letting me know what other  
18 personnel were doing or had learned. We had  
19 personnel looking for and attempting to recover  
20 video from any sources nearby, whether they be  
21 public or private.

22 We had other personnel conducting a  
23 canvass to find any possible witnesses, and then  
24 we were identifying, you know, what officers

1 were -- as I said, when I first got to the  
2 scene, there were a lot of police personnel on  
3 the scene. They weren't all there when this  
4 incident happened, so we were trying to weed  
5 out, if you will, who were the people that were  
6 present when this incident occurred versus  
7 assisting units that responded after the fact  
8 and were just involved in crowd control and  
9 traffic control and crime scene protection.

10 Q. Yeah. So let me back up a little bit  
11 and ask you about your assignment as lead  
12 detective.

13 So Sergeant Gallagher informed you  
14 you would be lead detective over the phone prior  
15 to your arrival at the scene of the shooting; is  
16 that fair to say?

17 A. Yes.

18 Q. And did he give you any instructions  
19 at that time like sort of the nature and scope  
20 of your investigation?

21 A. I believe all he told me was that  
22 there was a police officer-involved shooting  
23 incident.

24 Q. And when you were at the scene, did

1 you learn like who the personnel were that were  
2 going to comprise the detective team assigned to  
3 the shooting?

4 A. Normally in a major incident, if you  
5 will, like this, every detective who's working  
6 in the unit at the time that's not already  
7 occupied with other investigative duties, if  
8 they're available, they're either asked to or  
9 assigned to respond to the scene.

10 Q. Okay.

11 A. And once, depending on who gets there  
12 first, second, the supervisor, which primarily  
13 was Sergeant Gallagher who was subsequently  
14 joined by other supervisors, will assign tasks  
15 to the different detective personnel that  
16 arrive. As I said before, locate video, recover  
17 video, locate witnesses, interview witnesses,  
18 whatever.

19 So it's really an ad hoc kind of  
20 situation where depending on what personnel  
21 shows up, they become part of the investigative  
22 team. People that are there first are more  
23 likely to become major role players in the  
24 investigative process versus people who get

1 there later when most primary important issues  
2 are covered and then there's only minor details  
3 that need to be addressed.

4 Q. I got you. So is it fair to say that  
5 Sergeant Gallagher, on the night of  
6 October 20th, 2014, was the one assigning tasks  
7 to the detectives who arrived?

8 A. To the best of my knowledge. But  
9 that doesn't mean he was the only supervisor  
10 that was assigning tasks.

11 Q. Who -- do you know of any other  
12 supervisors who were assigning tasks?

13 A. I don't know who did what, but I do  
14 know eventually and ultimately Lieutenant Valdez  
15 and Lieutenant Wojcik both responded to the  
16 scene, as did Commander Roy.

17 Q. Okay.

18 A. But I don't know exactly at what time  
19 or at what point these people got there or what,  
20 if any, supervisory direction they gave.

21 Q. And you mentioned you were having  
22 sort of a series of conversations with Sergeant  
23 Gallagher as you were acquiring information; is  
24 that fair to say?

1 A. Correct. We were coordinating the  
2 effort between the two of us.

3 Q. Were you also having conversations  
4 with Lieutenant Wojcik?

5 A. Eventually he got to the scene, but I  
6 don't think he got to the scene until quite a  
7 bit later.

8 Q. Did you give him a briefing as to  
9 what was -- what you had learned when he got to  
10 the scene?

11 A. Wojcik?

12 Q. Mm-hm.

13 A. No, I don't recall really having much  
14 contact with him at the scene at all.

15 Q. Do you recall any, what I'll call,  
16 substantive conversations with Lieutenant Wojcik  
17 at the scene of the shooting?

18 A. No, I'm not sure I talked to him at  
19 all at the scene, actually. I may not have  
20 talked to him until later on at the office.

21 Q. Okay. How about Eugene Roy; do you  
22 recall having any conversation with him at the  
23 scene of the shooting?

24 A. As you said, nothing substantive.

1 You know, he showed up at the scene. He, you  
2 know -- again, he was present because it was a  
3 major incident. The follow-up investigation,  
4 him being the area commander was ultimately his  
5 responsibility.

6 Again, I'm not sure at what time or  
7 at what point he arrived at the scene, but I  
8 think he was briefed on everything from other  
9 supervisory personnel at the scene, and I really  
10 didn't have too much contact with him either at  
11 the scene.

12 Q. How about Deputy Chief McNaughton;  
13 did you have any conversations with him?

14 A. I did.

15 Q. Okay. Tell us about those  
16 conversations.

17 MR. MCKAY: Objection, foundation. When  
18 and where, Peter?

19 MR. NEUMER: At the scene of the shooting.  
20 BY THE WITNESS:

21 A. When Deputy Chief McNaughton arrived  
22 at the scene, being the area deputy chief he was  
23 what was called at that time the on-call  
24 incident commander, which would be the incident

1 commander for the -- for this incident.

2 When he arrived at the scene, I don't  
3 recall at what point that was. He learned -- or  
4 I assume he learned that I was the primary  
5 detective assigned to the investigation. And he  
6 came to me and -- he was like me, he arrived at  
7 the scene, he had no idea what had occurred, so  
8 he was looking for information on what we, the  
9 Chicago Police Department, had learned up to  
10 that point. So I gave him a very quick briefing  
11 on what I was aware of at that point.

12 BY MR. NEUMER:

13 Q. Okay. And was that the extent of  
14 your conversations with Deputy Chief McNaughton  
15 at the scene of the shooting?

16 A. The whole -- the entire incident  
17 happened over the course of over four city  
18 blocks. And as I became aware of all this  
19 information, you know, being the primary  
20 detective, I was kind of the focal point where  
21 information was coming to.

22 And, again, with my supervisor  
23 Gallagher, we were coordinating the  
24 investigation, I told McNaughton -- to the best

1 of my memory, I told -- I gave McNaughton a  
2 quick brief verbal summary of what had occurred  
3 over the four blocks, and he suggested that we  
4 get in his police vehicle so that he could  
5 actually drive the route that this incident had  
6 taken so that he could get a better  
7 understanding of what happened and where it  
8 happened.

9 Q. And so did you take a tour of the --  
10 sort of the relevant sites and locations --

11 A. Yes.

12 Q. -- that night?

13 A. Yes.

14 Q. You and Deputy Chief McNaughton?

15 A. Right.

16 Q. And you drove in his vehicle or your  
17 vehicle?

18 A. He drove in his vehicle.

19 Q. Okay. Do you recall the different  
20 streets or different locations you went to?

21 A. We went to where this incident  
22 started. The incident started with a call to  
23 911 from a civilian, and so we went to that  
24 location where that all started. And I --

1 Q. Was that the truck lot?

2 A. The trucking lot at -- I think it was  
3 around 41st and Kildare.

4 Q. Yeah. Okay. So that was the first  
5 spot you went to. Did you get out of the  
6 vehicle at that point?

7 A. I don't remember if we got out or  
8 not.

9 Q. Where did you go after you went to  
10 41st and Kildare?

11 A. I showed him where the path Laquan  
12 McDonald had taken northbound on Kildare then  
13 eastbound on 40th Street. I showed him  
14 approximately where Officers Gaffney and  
15 McElligott had indicated they had first  
16 encountered McDonald.

17 I then showed him the intersection  
18 where McDonald stabbed the tire of the police  
19 vehicle. And then we, again, followed the path  
20 eastbound on 40th Street. I showed him about  
21 McDonald having run through the Burger King  
22 parking lot out on the -- Pulaski Road and then  
23 southbound on Pulaski to the final --

24 Q. So --

1 A. -- location where the incident ended.

2 Q. Got you. Was -- did you visit these  
3 locations after you had finished all your  
4 interviews at the scene of the shooting?

5 A. No, it was right in the middle of the  
6 whole process.

7 Q. But it sounds like you had already  
8 talked to Officers Gaffney and McElligott prior  
9 to going and taking the tour?

10 A. I had probably done, again, a brief  
11 verbal interview with them.

12 Q. Okay.

13 A. But I don't know if I had actually  
14 written down the notes that I took -- ultimately  
15 took of their interviews.

16 Q. So I know it's difficult to, you  
17 know -- with complete precision say when one  
18 interview happened or another, but I want to  
19 kind of go back to after your initial interview  
20 with Officer Walsh.

21 You were walking us through the other  
22 steps that you had taken, and I want to ask --  
23 so now you finished up your initial interview  
24 with Walsh and generally tell us like what are

1 the next investigative steps that you undertake.

2 A. After my interview with Walsh?

3 Q. After your initial conversation with  
4 Officer Walsh. So you have your initial  
5 conversation with Officer Van Dyke and then you  
6 have your initial conversation with  
7 Officer Walsh.

8 A. Right, as I began to -- before -- at  
9 different times I had multiple consultations  
10 with Sergeant Gallagher because him being my  
11 sergeant, me being the primary detective, we  
12 needed to coordinate the efforts of the police  
13 department basically, so I had multiple  
14 conversation with him at different times.

15 I believe it was after I spoke to  
16 Officer Walsh that I went back to, I believe it  
17 was, 813 Robert's police vehicle, and for the  
18 first time I saw the video that we're all very  
19 familiar with now.

20 Q. Okay.

21 A. So I went -- I sat in the vehicle,  
22 the driver's seat in the vehicle, and on the  
23 small monitor in the vehicle I saw the video.

24 Q. Was Sergeant Becvar at the scene at

1 that point?

2 A. The first time I saw the video, I  
3 don't think he had arrived yet.

4 Q. So did you just sort of queue the  
5 video up yourself when you were in -- how did  
6 that process work?

7 A. At that point in time I as a  
8 detective don't use that equipment regularly, so  
9 I really didn't know how to work it. So I  
10 believe one of the officers at the scene -- I  
11 don't know what officer it was -- leaned into  
12 the car, queued up the video, hit play, and then  
13 let me watch it.

14 Q. Okay. Were you able to watch it  
15 multiple times, or did you just -- like how  
16 many -- did you watch it once or --

17 A. I saw it that one time initially. I  
18 mean subsequently that night, I don't know how  
19 many times I saw it because as I learned  
20 different information, I would go back, refer to  
21 the video to compare notes, if you will.

22 Q. So after -- when you got new  
23 information, you might -- did you -- do you  
24 think you watched it five times that night? Is

1 it possible?

2 A. This investigation -- the incident  
3 occurred just before 10:00 p.m., and I worked  
4 well into the next morning with this  
5 investigation.

6 So between -- at the scene on the  
7 small monitor in the police vehicle, I didn't  
8 look at it all that many times. But then  
9 subsequently, once Sergeant Becvar got on the  
10 scene, once the investigation moved into the  
11 area, Sergeant Becvar uploaded the video into  
12 the permanent system and we had it up on one of  
13 the computer monitors in the office. I couldn't  
14 tell you how many times ultimately I viewed that  
15 video.

16 Q. But is it fair to say you watched the  
17 video multiple times at the scene of the  
18 shooting?

19 A. I would guess somewhere between three  
20 to five times at the scene.

21 Q. Okay. So now you're at the  
22 813 Robert vehicle. An officer who you don't  
23 recall queues up the video for you and you watch  
24 the video. In its entirety, or do you recall

1 like if when he started up the video or did  
2 you --

3 A. Well, in its entirety is -- I mean,  
4 the recording that's permanently stored begins  
5 well before this incident. I mean, it's the  
6 vehicle occupied by the officers assigned to  
7 Beat 813 Robert.

8 At some point in time they heard the  
9 request for assistance regarding a person with a  
10 knife, and they respond to that scene. And it's  
11 when they turn their emergency equipment on, the  
12 blue lights on the police vehicle, that the  
13 camera begins recording. Or maybe there's a  
14 short buffer period before -- I don't know the  
15 technical information involved there.

16 But that recording starts, I mean,  
17 literally miles away, and it basically just  
18 shows their path coming to the scene.

19 At the scene, I didn't view all of  
20 that. The officer who had queued it up  
21 basically had it queued up to the point where  
22 813 Robert -- I don't even know if they had it  
23 to the point where they were first arriving at  
24 the scene near the Burger King. They may have

1 had it queued up to just immediately prior to  
2 the confrontation between McDonald and Van Dyke.

3 Q. Okay.

4 A. And I may have just watched that  
5 small portion.

6 Q. Sure.

7 A. Because everything else was -- I  
8 mean, not that it's not important, but it didn't  
9 directly affect what occurred between those two  
10 individuals.

11 Q. Did you see the actual shooting the  
12 first time you viewed the video?

13 A. Van Dyke firing his weapon?

14 Q. Yes. Yes.

15 A. Yes.

16 Q. Okay. So you watched the video in  
17 the 813 Robert vehicle. What happens next?

18 A. And, again, now I have no idea what  
19 order.

20 Q. Okay.

21 A. Ultimately it was determined that  
22 there were five police units each containing two  
23 officers present at -- present or near the scene  
24 at the time the interaction between Jason

1 Van Dyke and Laquan McDonald occurred. And I  
2 had already spoke to Van Dyke and Walsh.

3 Ultimately and eventually I spoke to  
4 the other eight officers that were present at or  
5 near the scene, but I have no recollection of  
6 what order that occurred in.

7 Q. And do you recall -- so Officer Walsh  
8 and Van Dyke you spoke to multiple times at the  
9 scene of the shooting; is that fair to say?

10 Well, let me go one at a time.  
11 Officer Van Dyke you spoke to at least twice at  
12 the scene of the shooting; is that fair to say?

13 A. I can say that it's probably the same  
14 for all of the officers. There were two primary  
15 interviews, one was the initial first verbal  
16 interview to find out what that officer's  
17 involvement was. And then ultimately I went  
18 back and actually, when I had the time, once  
19 things slowed down a little bit and I had the  
20 time, I took a more detailed GPR of what each of  
21 those officers told me.

22 Again, I have no idea what the order  
23 was, and the order I talked to them the first  
24 time was not necessarily the order I talked to

1    them the second time.  And as different -- I'm  
2    getting asked questions -- Sergeant Gallagher  
3    and myself are getting asked questions up the  
4    chain of command, and as different questions  
5    come up, I may have gone back to this officer or  
6    that officer to ask a follow-up question.

7 But there were basically two primary  
8 interviews, the first is the initial verbal.  
9 The second one is the one where I had time to  
10 actually write the GPR down. But I did have  
11 other contact with the officers during the  
12 course of the investigation at the scene.

13 Q. And a question I should have asked  
14 you earlier, what is a GPR?

15           A.       It's called a General Progress  
16 Report. That's just a title that the police  
17 department assigned to it. It's basically a  
18 sheet which comes on a pad, and it's a bunch of  
19 blank lines. It's got a little heading at the  
20 top that you fill out, signature boxes at the  
21 bottom, a little box where you can put the RD  
22 number for the case on it. And the majority of  
23 the report is just blank lines.

24 And it's basically formalized scratch

1 paper. I'm sure there was a time -- people joke  
2 about the old-fashioned detectives taking their  
3 notes on matchbook covers. It's long before my  
4 time, but at some point in time it was decided  
5 that that needed to be formalized, so all the  
6 notes that were taken became part of the  
7 permanent investigative file. And, again, that  
8 was before I started on the police department,  
9 probably this form existed.

10 And it basically -- there's no  
11 requirement that you use them, but if you are  
12 going to take notes, they are supposed to be  
13 taken on a General Progress Report, and then  
14 that sheet of paper that -- any time you take  
15 notes on one of those documents, one of those  
16 pages, it's supposed to be submitted and become  
17 a permanent part of the file.

18 Q. And are there -- is there a General  
19 Order or Special Order that governs GPRs or has  
20 any reference to GPRs?

21 A. I certainly can't say all, but I have  
22 actually read most of the Department directives  
23 that I'm aware of, and I don't recall a specific  
24 directive that addresses the use of General

1 Progress Reports. It's just when I got  
2 promoted, I was sent back to the academy for  
3 training regarding a detective, and I was told  
4 what I just told you.

5 Q. So other than the officers that were  
6 at the scene of the shooting when it occurred,  
7 did you interview anyone else at the scene? And  
8 I'm not talking about conversations with  
9 Gallagher or conversations with McNaughton, but  
10 interview anybody in an investigative capacity.

11 A. Well, I had conversations with some  
12 of the other detectives that were conducting the  
13 canvass and the search for video.

14 Q. Okay.

15 A. But I didn't interview any other  
16 witnesses, whether they be police officers or  
17 civilians.

18 Q. And maybe --

19 A. I just had conversations with other  
20 police personnel regarding the conduct of the  
21 investigation, if you will.

22 Q. Would it help if we -- and this is  
23 not specific to this question, but we put the  
24 Exhibit 5 Case Supplementary Report before you?

1 Would that assist you in answering any of these  
2 questions at all or refresh your recollection as  
3 to --

4 A. I mean, that report is a summary of  
5 the investigation, and so it contains major  
6 developments in the case at that time, but it  
7 doesn't include every conversation I had with  
8 every person that I talked to.

9 Q. I just wanted to know if that --  
10 again, I want to give you all the information so  
11 that you can refresh your recollection so you're  
12 not going to say, oh, there was someone else or  
13 something.

14 So your recollection is that you --

15 A. I mean, are -- do you have -- do you  
16 think there's someone else that's in the report  
17 that I'm not remembering? I'll be happy to look  
18 at the report. I don't want get accused of  
19 lying here.

20 Q. Let's just give you the report. Do  
21 we have the Exhibit 5 report here? And, again,  
22 just so you go through and if there's  
23 anything -- sometimes I don't ask all the right  
24 questions. I try to, but if there's anything

1 you see that refreshes your recollection, then  
2 it helps all parties.

3 THE WITNESS: Mind if I take a break to go  
4 to the bathroom?

5 MR. NEUMER: Sure. Sure. The time is  
6 11:59, and we'll go off the record.

7 (WHEREUPON, a recess was had.)

8 MR. NEUMER: The time is 12:09, and we are  
9 back on the record.

10 BY MR. NEUMER:

11 Q. So we just provided you,  
12 Detective March, with the Exhibit 5 CSR as  
13 reference throughout this whole line of  
14 questioning, in case you see anything in there  
15 that refreshes your recollection.

16 And we were asking you about the  
17 interviews you conducted at the scene, and I  
18 think you stated that you interviewed eight  
19 officers; is that correct?

20 A. Total of ten.

21 Q. Total of ten. Okay.

22 So it was Officer Walsh and Van Dyke  
23 and then the two members of the four other  
24 vehicles that were at the scene, correct?

1 A. Correct.

2 Q. And then as you look through that  
3 CSR, you'll see that it has statements from ten  
4 police officers who were at the scene; is that  
5 correct?

6 A. Yes.

7 Q. Is it fair to say that those -- the  
8 summaries of those statements that are included  
9 in the Exhibit 5 CSR were the product of a  
10 second interview with each of those individual  
11 officers?

12 A. They were a product of two  
13 interviews --

14 Q. Product --

15 A. -- first the verbal interview and  
16 then the second follow-up with the GPR.

17 Q. And it was in the second interview of  
18 those individuals that you took notes that  
19 became a GPR?

20 A. Correct.

21 Q. And then did you base the summaries  
22 of those statements that are in the Exhibit 5  
23 CSR off of those GPRs?

24 A. Yes.

1 Q. For each of those officers, you would  
2 base the summary off the GPR, your handwritten  
3 notes that you took during the second interview  
4 of those officers?

5 A. Yes.

6 Q. With respect to the video, I know you  
7 mentioned watching the video multiple times at  
8 the scene, including the first time was in the  
9 813 Robert vehicle. Do you have a specific  
10 recollection of watching the video of the  
11 McDonald shooting with anyone else present?

12 A. No.

13 Q. Did you show the 813 Robert dash cam  
14 video of the shooting to any of the officers you  
15 interviewed?

16 A. I did not show it to any officer. I  
17 was aware that police personnel at the scene  
18 were viewing the video in the police vehicle and  
19 then subsequently at the area office.

20 Again, that was why it was -- someone  
21 had pulled it up on the computer so that if  
22 anybody needed to refer to it, it was there.

23 Q. Okay.

24 A. But I did not specifically tell

1 anybody to view it or take anybody in there and  
2 show it to them. I may, at some point at the  
3 Area, mentioned to the officers involved that  
4 once the video was up on the computer, that it  
5 was there in case they wanted to look at it.

6 Q. Do you recall being present at the  
7 scene of the shooting now while any of the  
8 officers that you interviewed viewed the video?

9 A. No, I was not present. I couldn't  
10 tell you -- I don't know that any of them or all  
11 of them viewed the video at the scene.

12 Q. Okay. Do you know whether Deputy  
13 McNaughton watched the 813 Robert video of the  
14 McDonald shooting?

15 A. I'm sure he did, but I was not  
16 present for that.

17 Q. How about Sergeant Gallagher, do you  
18 know whether he saw the 813 Robert dash cam  
19 video of the McDonald shooting?

20 A. Again, I'm sure he did, but I  
21 don't -- I was not present. I couldn't tell you  
22 when.

23 Q. How about Lieutenant Wojcik; do you  
24 know if he saw the video of the 813 Robert video

1 of the McDonald shooting?

2 A. At the scene?

3 Q. At the scene.

4 A. I don't know. I don't -- I couldn't  
5 tell you if he saw it at that point or not.

6 Q. How about Sergeant Franko, do you  
7 know whether he saw the video of the McDonald  
8 shooting, the 813 Robert video?

9 MR. MCKAY: What was the name?

10 MR. NEUMER: Sergeant Franko.

11 BY MR. NEUMER:

12 Q. Are you familiar with  
13 Sergeant Franko?

14 A. Could you tell me who he is?

15 MR. BROWN: F-r-a-n-k-o.

16 BY MR. NEUMER:

17 Q. He's a sergeant for Officer Van Dyke  
18 and Walsh. He's their sergeant.

19 A. So he's an 8th District sergeant?

20 Q. Yeah.

21 A. I can't tell you if he viewed it or  
22 not. I --

23 Q. You're not familiar with the name  
24 Sergeant Franko?

1 A. No, I don't even remember that name.

2 Q. Okay. Okay. Did you talk to any FOP  
3 representatives at the scene of the shooting?

4 A. I know FOP representatives came out  
5 that night. I know they were present in the  
6 office later. I don't recall if I talked to  
7 anybody from FOP at the scene, though. I don't  
8 believe I did.

9 Q. How about, were you aware of any Cook  
10 County officers being at the scene of the  
11 shooting?

12 A. I never saw any Cook County police  
13 officers at the scene, and no one ever told me  
14 that there were Cook County officers at the  
15 scene. I only learned of the -- their alleged  
16 existence from a news report months later.

17 Q. Did you ever find out the identity of  
18 those officers?

19 A. No.

20 Q. So I assume there -- you did not  
21 interview those officers?

22 A. No, I didn't know they existed.

23 MR. NEUMER: Before we move on to some of  
24 the allegations contained in the Notification of

1 Allegations, I want to give my colleague,  
2 Mr. Brown, an opportunity to sort of ask any  
3 cleanup questions of this section. And I know  
4 the provision in the CBA --

5 MR. McKAY: Yes, for the record, I have to  
6 object to this procedure -- I have no objection  
7 to Mr. Brown asking questions at the end of all  
8 your questions, Mr. Neumer.

9 Pursuant to Section 6.2, Paragraph C,  
10 I would presume, based on your questions, you're  
11 the designated primary interviewing officer, and  
12 Mr. Brown would be the designated secondary  
13 interviewing officer. And under the contract  
14 between the City of Chicago and the police unit  
15 and FOP Lodge 7, the primary officer is to  
16 conduct the main interview.

17 The secondary interviewer may  
18 participate in the interview provided that the  
19 secondary interviewer shall present for the  
20 entire interview. Mr. Brown has.

21 The secondary interviewer will not  
22 ask any questions until the primary interviewer  
23 has finished asking questions and invites the  
24 secondary interviewer to ask questions.

1 And, finally, the secondary  
2 interviewer will ask follow-up questions for  
3 clarification questions.

4 The primary interviewer will not ask  
5 any question until the secondary interviewer has  
6 finished asking questions and invites the  
7 primary interviewer to ask follow-up questions.

8 So I interpret that to mean that,  
9 Mr. Neumer, with all due respect, you finish  
10 your questioning and then you hand it off to  
11 Mr. Brown. And after Mr. Brown is finished, you  
12 can ask follow-up questions to Mr. Brown's  
13 questions. That's how the procedure is pursuant  
14 to the contract.

15 MR. NEUMER: And that's fine. We've found  
16 that it moves things along quickly -- or more  
17 quicker -- more quickly if we do it section by  
18 section, but if you want to do it all at the  
19 end, that's fine, too. So that's the reason --

20 MR. MCKAY: Maybe I don't have an  
21 objection.

22 (WHEREUPON, private discussion was  
23 had between Counsel and his client.)

24 MR. MCKAY: We have no objection at this

1 point. If Mr. Brown wants to ask questions  
2 regarding what you just asked, no objection.

3 MR. NEUMER: Exactly. That's what we'll  
4 try and do is break it down section by  
5 section --

6 MR. McKAY: Fair enough.

7 MR. BROWN: The thought is that it's still  
8 fresh in everybody's mind.

9 MR. McKAY: You know what, I made the  
10 objection. I withdraw it. My apologies.  
11 Please continue.

12 MR. BROWN: I don't have any questions.  
13 BY MR. BROWN:

14 Q. You mentioned detectives being --  
15 actually, you mentioned yourself that you were  
16 not issued, I guess, a department cell phone.  
17 Are other detectives issued CPD cell phones?

18 MR. McKAY: I object to the relevance, and  
19 also that assumes that this officer knows. So  
20 you're asking this officer to speculate on other  
21 officers, so, for those two bases, I object to  
22 this question.

23 BY MR. BROWN:

24 Q. If you know.

1 A. I don't know who, if anyone, has a  
2 department-issued cell phone.

3 Q. And when you say, "anyone," do you  
4 mean your fellow detectives?

5 A. I'm talking about detectives. I know  
6 supervisors use cell phones, but I couldn't even  
7 tell you who's using their personal phone and  
8 who's using a department phone. I have no idea.

9 Q. My follow-up to that was, there's  
10 absolutely nothing out of the ordinary to see  
11 that yourself or other CPD officers are using  
12 their cell phone related to, I guess, official  
13 business?

14 MR. MCKAY: I object to the form of that  
15 question. I don't understand the question. I  
16 don't know if my client does. Could you either  
17 repeat the question or rephrase it?

18 MR. BROWN: Sure. Sure.

19 BY MR. BROWN:

20 Q. I wanted to ask, as far as you know,  
21 is there any issue with using your personal cell  
22 phones as it relates to official Chicago Police  
23 Department business?

24 MR. MCKAY: I object. How is that relevant

1 to the investigation of the shooting, Mr. Brown?

2 MR. BROWN: Well, it sounds like that there  
3 isn't an issue --

4 MR. McKAY: Assuming there is a policy that  
5 you're asking about. I don't know that there  
6 is, but go ahead.

7 MR. BROWN: Right. That was going to be my  
8 next question, is there a policy on the use of  
9 cell phones for your official business. If  
10 there isn't, that's fine, and he can let me  
11 know. But I'm trying to get it on the record  
12 that there's nothing out of the ordinary that he  
13 used his cell phone in relation to official CPD  
14 business.

15 MR. McKAY: That assumes facts he did use  
16 his cell phone, and I don't know that's been  
17 established either for this investigation or any  
18 other investigation.

19 MR. BROWN: I thought he mentioned to us  
20 earlier that he used his cell phone.

21 MR. McKAY: The record speaks for itself.  
22 I don't recall that answer.

23 BY MR. BROWN:

24 Q. Okay, Detective March, have you ever

1 used your personal cell phone as it relates to  
2 CPD business?

3 MR. McKAY: I object to that question, you  
4 know, "ever." Regarding this investigation,  
5 perhaps that's relevant, but regarding any  
6 investigation, I would object to that as being  
7 irrelevant.

8 THE WITNESS: Do I answer now?

9 MR. McKAY: If you can. If you understand  
10 the question.

11 BY THE WITNESS:

12 A. Okay, specifically what is your  
13 question at this point?

14 BY MR. BROWN:

15 Q. Is there any issue with using  
16 personal cell phones for official CPD business?

17 A. I'm not sure what you mean by,  
18 "issue."

19 Q. Seeing that the official notification  
20 you mentioned you said might have been on your  
21 desk phone, possibly could have been on your  
22 cell phone --

23 MR. McKAY: He said he didn't have a desk  
24 phone. Object to that statement made by you. A

1 desk phone.

2 MR. BROWN: A desk phone, right.

3 BY MR. BROWN:

4 Q. I'm sorry, a desk phone at the area.

5 Is there any policy that you know of that  
6 prohibits detectives or other CPD personnel from  
7 using their personal cell phones as it relates  
8 to official CPD business?

9 A. No.

10 Q. We've learned that patrol officers  
11 are issued radios pursuant to their work. Are  
12 detectives also issued radios pursuant to their  
13 work?

14 A. There are radios available in the  
15 unit. As with most equipment, there aren't  
16 enough, so sometimes there aren't any available.

17 Q. Would it be a standard course to  
18 receive the notifications for -- that you're  
19 going to be assigned for an investigation via, I  
20 guess, the area radio that's available to  
21 everyone?

22 MR. McKAY: I have to object. Here's my  
23 objection: It seems to me -- I don't know about  
24 Detective March. It seems to me the question is

1 kind of confusing. So unless he can answer  
2 this -- and I am instructing him to answer it if  
3 he understands the question. If he doesn't  
4 understand your question, Mr. Brown, I ask that  
5 you rephrase it.

6 BY THE WITNESS:

7 A. What's the question again?

8 BY MR. BROWN:

9 Q. Do you receive notifications as it  
10 relates to the assignment, as the lead detective  
11 on the area, I guess, pool radio?

12 A. Do I receive assignments in that  
13 manner?

14 Q. Mm-hm.

15 A. No.

16 Q. What is the general method that's  
17 used to inform you of your assignment on an  
18 investigation as the lead detective?

19 A. Well, there's no written department  
20 directive establishing a policy for the use of  
21 personal cell phones on police business, but  
22 I've learned when I was promoted to detective  
23 back in 1990, okay, at that time cell phones  
24 were not everywhere like they are today. At

1 that time, everyone had a pager.

2 When I was promoted, I was  
3 told -- again, the Department didn't provide us  
4 with pagers then; they don't provide us with  
5 cell phones now. And I was told then that I  
6 needed to get a pager for myself or else I would  
7 have to be available on the police radio all the  
8 time.

9 Which is not a practical policy  
10 because you go into a business or something,  
11 they don't want the police radio blaring, so you  
12 have to turn it down or turn it off, and so you  
13 can't be available all the time.

14 So unofficially, the Department  
15 works, back then it was off pagers, now would've  
16 graduated from cell phones, but there is no  
17 department policy.

18 And if there is an issue, it's  
19 probably most members would have an issue that I  
20 have to use my cell phone for department  
21 business but I have to pay for it.

22 If the Department wants to operate  
23 either on cell phones or back when it was  
24 pagers, they should have provided us with that

1 equipment. They didn't, so the reality of the  
2 situation is, yes, I use my personal cell phone  
3 for business, for police business. Everybody in  
4 the Detectives Bureau does. And it's not  
5 mandated by any written directive of the  
6 Department, but the reality of the situation is  
7 that the Department mandates that we have to be  
8 available. They want us to be available by cell  
9 phone but they don't want to pay for cell  
10 phones, so in order to make this department  
11 work, we have to provide our own cell phones and  
12 use them for police business.

13 Q. Understood.

14 A. And in addition to with the police  
15 radio, I'm sure the City and the Department's  
16 policy would be that we provide them radios;  
17 they don't have to go out and buy a cell phone.  
18 But, as I pointed out before, it's not practical  
19 to always would be available on the radio.

20 And, on top of it, most of us take a  
21 radio out when we go out on the street for  
22 safety purposes, so that if we need to call --  
23 number one, if you need to call for help, the  
24 quickest way to call for help is to get on the

1 radio and call the closest police car to come  
2 get you.

3 And even for that safety purpose, we  
4 don't have enough radios in the unit. So the  
5 flip side is that -- of that is we also don't  
6 have enough radios to have every detective  
7 available by radio.

8 Q. I see. Had you worked as the lead  
9 detective on other police-involved shootings?

10 A. Yes.

11 Q. Do you recall generally how many?

12 A. I've been a detective for 25 years,  
13 so I would guess -- I don't keep a running tab.  
14 You're asking about being the primary or lead  
15 detective?

16 Q. Yes, sir.

17 A. Because I've assisted on many more  
18 obviously.

19 Q. Just you as the lead detective.

20 A. In those 20 years I would guess  
21 probably at least 30, maybe.

22 Q. Was there anything about the McDonald  
23 investigation that differed substantially in  
24 protocol or procedure related to those other,

1 let's say, approximately 30 investigations where  
2 you were the lead investigator -- I'm sorry,  
3 lead detective?

4 A. You're asking if there was  
5 anything --

6 Q. Substantially different in procedure  
7 in how you would go about, you know, pursuing  
8 your investigation or, you know, protocol and  
9 what --

10 A. No, this investigation was conducted  
11 pretty much the same way the Department has been  
12 conducting the investigation of police incidents  
13 for -- because I've been a detective for  
14 25 years -- decades. Up until this year,  
15 obviously, because, as of January 1st, the law  
16 has changed, so now the investigation of  
17 police-involved shooting incidents is much  
18 different.

19 Q. And I know you mentioned that on the  
20 scene you would speak with Sergeant Gallagher as  
21 far as a direction. I was wondering, as the  
22 lead detective, are you empowered to direct the  
23 other detectives as to what to do?

24 A. There is no formal authority that I

1 have over any other detective. They are of  
2 equal rank, but as -- we are all part of a team.

3 And normally what happens -- I mean,  
4 there is the exceptional person that doesn't  
5 work like everyone else does, but, for the most  
6 part, most of us take the attitude of, if  
7 whoever's been designated as the lead detective,  
8 I'm there to help him. So if he asks me to do a  
9 job, it doesn't matter how hard it is, it  
10 doesn't matter how easy it is, it doesn't matter  
11 how unpleasant it might be. Most of us don't  
12 have the attitude that that's not important  
13 enough for me to do or that's below my --

14 Q. Sure.

15 A. -- we're all there to help -- the  
16 team of detectives is there to help the primary  
17 or lead detective accomplish the tasks he needs  
18 to accomplish.

19 So I don't direct anybody, but I will  
20 ask people to do this or that, and normally they  
21 say okay.

22 Q. Are those documented anywhere, the  
23 orders or requests that are made of the other  
24 detectives as to their assignments?

1 A. No.

2 Q. Would you have to follow up with them  
3 at some point if they, I guess, didn't follow  
4 through on your request?

5 A. Well, I would follow up with them, of  
6 course. I mean, if they're doing something  
7 that's part of the investigation, I would follow  
8 up with them to find out what the results are of  
9 their efforts, so of course there's going to be  
10 follow-up.

11 Q. Earlier you mentioned the GPR that  
12 wasn't included in the documents that we  
13 provided to you. I was trying to think through  
14 the investigative file and just wanted to ask if  
15 that GPR you spoke of -- I believe I have an  
16 idea of it -- is it a GPR that notes officers'  
17 names and their status as either the passenger  
18 or driver of the vehicle, I believe maybe their  
19 star number and possibly their uniform status;  
20 is that the document you were speaking of?

21 A. Yes.

22 Q. Okay. I just wanted to make sure  
23 we're on the same page with that.

24 You mentioned that it's possible that

1 officers on the scene might have viewed the  
2 video?

3 A. Yes.

4 Q. Does that concern you at all that  
5 they might have viewed the video?

6 MR. McKAY: Objection to the form of that  
7 question and to the relevance of that.

8 BY MR. BROWN:

9 Q. As it relates to them giving you  
10 their accounts and their understanding as to  
11 what happened that night, would it concern you  
12 if any of the officers had seen the video before  
13 they spoke with you or spoke with someone else?

14 A. No. There's no policy against it.

15 Q. There's no policy against it?  
16 There's no concern that they could -- instead of  
17 using their own independent recollection, they  
18 could just tell you what they saw on the video?

19 A. No.

20 Q. No? Okay.

21 You mentioned that you learned of the  
22 Cook County officers being on the scene  
23 sometime, I guess, way post-October 20th, 2014?

24 A. Yes.

1 Q. Did you learn of those Cook County  
2 officers being on the scene, was it after you  
3 completed your CSR?

4 A. It very well may have been. I don't  
5 remember exactly the timing, but it may very  
6 well have been after I completed all these  
7 reports.

8 Q. I see. If you would have learned of  
9 those Cook County officers being on the scene  
10 after you completed the CSR, would it be, I  
11 guess, standard practice to reopen the CSR and  
12 include information related to them, or how  
13 would you handle that type of information?

14 A. Well, the information I became aware  
15 of about these Cook County officers was from a  
16 news report that appeared to show video from,  
17 I'm guessing, one of -- a Chicago Police  
18 Department dash cam video of a car that got on  
19 the scene after the incident was all over -- not  
20 one of the initial five cars with the ten  
21 officers that I spoke to -- someone came to  
22 assist with crowd control, traffic control,  
23 crime scene protection and showed -- the video I  
24 saw showed someone in what appeared to be a Cook

1 County Deputy Sheriff's uniform walking up to  
2 the scene near where McDonald was, and then -- I  
3 don't recall if he spoke to -- it looked like  
4 maybe he spoke to an officer or not and then he  
5 walked away.

6 And, again, my information was that  
7 they -- I had the -- what I thought had occurred  
8 there was that it seemed to be represented that  
9 they saw all the activity with all the flashing  
10 police lights and everything and were nearby and  
11 came over to see what was going on.

12 Came over, were basically told the  
13 incident was contained, everyone present was  
14 there; it wasn't like there was an offender that  
15 had escaped and we were searching for. And they  
16 left.

17 I'm not aware they did anything  
18 substantial other than coming there, finding out  
19 that their services were not needed, and  
20 leaving.

21 Q. Do you know if any of those officers  
22 might have had any conversation with McDonald?

23 A. As I said, when this incident  
24 occurred, I talked to ten CPD officers who were

1 at the scene at the time, and none of them  
2 mentioned the arrival of Cook County Sheriffs  
3 personal arriving at the scene much less having  
4 any interaction with Laquan McDonald.

5 Q. Had any of those officers mentioned  
6 to you about the Cook County Sheriff's Office,  
7 would you try to follow-up with them?

8 MR. MCKAY: Well, I have to object to that.  
9 There is no evidence based on what this witness  
10 has testified that these Cook County Sheriff's  
11 police officers were there before he arrived.  
12 He received no information from those officers  
13 he did talk to that these Cook County Sheriffs  
14 were there.

15 You're asking this man to speculate  
16 about something that, unless you have something  
17 that you're prepared to give us, there's no  
18 evidence of whatsoever.

19 Do you have something regarding any  
20 Cook County Sheriff's Police to indicate they  
21 were there before Detective March was?

22 MR. BROWN: I could be mistaken, but I  
23 thought Detective March mentioned he saw video  
24 where they were -- what appeared to be Cook

1 County Sheriff's officer came into view and  
2 spoke with --

3 MR. MCKAY: He saw a news report what could  
4 have been a long time after he completed these  
5 reports. And these reports are dated in the  
6 middle of March 2015.

7 So where this news report got this  
8 video, it could very well be, as Detective March  
9 testified, a responding unit that had a dash cam  
10 video that arrived after the shooting occurred.

11 Other than that, is there any  
12 evidence that you have to provide  
13 Detective March that somehow there were Cook  
14 County Sheriff's police officers there at the  
15 scene and did some type of an investigation or  
16 talk to anyone, including but not limited to  
17 Mr. McDonald, as you put it?

18 MR. BROWN: No, my knowledge comes from I  
19 believe we're speaking of the same video where  
20 the Cook County officer was shown walking into  
21 view. That video was from a responding unit  
22 that was there on the scene.

23 I'm just wondering would there have  
24 been any interview in speaking to those officers

1 to see what their -- you know, maybe one of them  
2 spoke to McDonald, maybe they had some other  
3 information that could be relevant to your  
4 investigation, so I wanted to ask about that.

5 BY THE WITNESS:

6 A. If someone had informed me that at  
7 some point in time they had some kind of  
8 substantial encounter with Laquan McDonald that  
9 night, I would have followed up on it.

10 To my knowledge to this date, their  
11 only activity at the scene was to respond to all  
12 the activity that they saw. My impression is  
13 that they got to the scene after the incident  
14 was all over. And I'm not aware that anybody  
15 had any contact with Laquan McDonald.

16 So if a Cook County Sheriff's deputy  
17 had arrived on the scene, had no involvement  
18 with anyone, and left the scene, just the fact  
19 that he was there would not make me think I  
20 needed to follow up anything with them, just him  
21 showing up on the scene after the fact.

22 BY MR. BROWN:

23 Q. Sure. That's a reasonable answer,  
24 but we don't know -- there's a -- we don't know

1 what that officer did. There was a point where  
2 he went out of the frame of the video. Maybe he  
3 spoke to McDonald, maybe he didn't. I just  
4 wanted to ask you was that something you might  
5 have followed up on, but it sounds like your  
6 response is no?

7 A. My -- I never received -- I certainly  
8 never received any specific information to that  
9 effect, and I had no impression that this  
10 officer ever had any interaction with Laquan  
11 McDonald.

12 Q. Okay.

13 MR. BROWN: That concludes my questions. I  
14 will toss it back to Peter.

15 BY MR. NEUMER:

16 Q. Kris was talking about videos, and I  
17 wanted to ask, at any time while you were at the  
18 scene of the shooting that night, did you see  
19 videos other than the 813 Robert dash cam video?

20 A. Can you repeat the question?

21 Q. Sure. Sure. So you had mentioned  
22 that you had seen the 813 Robert dash cam video  
23 while you were at the scene of the shooting.  
24 And I was wondering if you saw any other dash

1 cam videos while you were at the scene of the  
2 shooting?

3 A. No, I don't recall seeing any other  
4 dash cam videos at the scene.

5 Q. Did you see any other video of the  
6 shooting while you were at the scene?

7 A. I saw the Dunkin' Donuts video once  
8 it was recovered.

9 Q. And where were you when you watched  
10 that video?

11 A. Out there on the street on Pulaski.  
12 The detective who had recovered it from the  
13 Dunkin' Donuts had it on the laptop computer,  
14 and he was playing it on that.

15 Q. Was anyone else present when you were  
16 watching the Dunkin' Donuts video?

17 A. I'm sure there were other people  
18 around. I couldn't tell you who they were.

19 Q. Okay.

20 A. I know at one point in time Deputy  
21 Chief McNaughton saw it.

22 Q. He saw the Dunkin' Donuts video?

23 A. The Dunkin' Donuts video, yes.

24 Q. Do you recall the officer who had

1 recovered the video from Dunkin' Donuts?

2 A. Detective Richard Hagen, H-a-g-e-n.

3 Q. In terms of -- we were talking  
4 earlier about the -- all the individuals who  
5 comprised the investigative team for the  
6 McDonald shooting -- I want to show you a  
7 document that I believe was not prepared --  
8 well, I don't think it was prepared by you.

9 Okay, we'll hold off on that.

10 So we also talked earlier about  
11 the -- in Exhibit 5, the CSR, I know you said  
12 that you talked to a lot of people and you don't  
13 know necessarily in what order. Do you think  
14 the order you interviewed people is reflected by  
15 the order of the interviews in the CSR or the  
16 summary of their statements?

17 MR. MCKAY: I object, Mr. Neumer. You're  
18 asking this witness to guess. He's already  
19 stated he doesn't recall the order of the  
20 witnesses, and now you're asking do you believe  
21 the order might have been as it's indicated in  
22 his report.

23 MR. NEUMER: Yeah, if he knows.

24

1 BY MR. NEUMER:

2 Q. If you don't know, then that's --

3 MR. McKAY: My objection is he already  
4 testified he doesn't recall the exact order, so  
5 now you're asking him to guess what it --

6 MR. NEUMER: No, I'm asking him to refer to  
7 Exhibit 5.

8 BY MR. NEUMER:

9 Q. And I'm asking you, does that refresh  
10 your recollection as to the order in which you  
11 conducted these interviews?

12 A. No.

13 Q. Okay.

14 A. Aside from Jason Van Dyke and Joseph  
15 Walsh.

16 Q. So you know that --

17 A. They were the first two, I know that.  
18 After that, I have no idea.

19 Q. Okay. And your CSR would not  
20 necessarily -- the order in which those  
21 interviews appear in the CSR does not  
22 necessarily accord with the order in which you  
23 conducted these interviews?

24 A. No.

1 Q. With respect --

2 A. It could be by chance it does, but I  
3 can't tell you one way or the other.

4 Q. Sure. Sure. That's all I'm looking  
5 for.

6 With respect to your -- the second  
7 interview you conducted of Officer Walsh and  
8 Officer Van Dyke when you took the notes that  
9 you used to create a summary of their statements  
10 in the Exhibit 5 CSR, was anyone else present  
11 during those interviews?

12 A. No.

13 Q. It was you and Officer Walsh for the  
14 second interview of Officer Walsh?

15 A. Yes.

16 Q. Okay. And you and Officer Van Dyke  
17 for the second interview of Officer Van Dyke?

18 A. Yes.

19 Q. Okay. I'm going to go into some of  
20 the Notice of Allegations. I'll read the  
21 allegation -- if you want me to identify which  
22 one it is?

23 MR. MCKAY: I appreciate that.

24

1 BY MR. NEUMER:

2 Q. On Page 2, Roman numeral VIII. And I  
3 will -- and I'll do a little foundation here  
4 just to set us up.

5 Officer Dora Fontaine, you spoke to  
6 her at the scene of the shooting; is that  
7 correct?

8 A. Yes.

9 Q. And she's one of the ten officers you  
10 interviewed at the scene of the shooting?

11 A. Yes.

12 Q. Do you have a specific recollection  
13 of where that interview took place?

14 A. Out there on the street, probably  
15 somewhere near her police vehicle.

16 Q. Do you recall whether you spoke to  
17 her alone or with her partner?

18 A. I spoke to her alone.

19 Q. Do you know who her partner is -- or  
20 was on that night?

21 A. Officer Viramontes.

22 Q. Any recollection of how long -- so  
23 did you speak with Officer Fontaine on two  
24 occasions at the scene of the shooting?

1 A. Yes.

2 Q. Okay.

3 A. At least.

4 Q. At least.

5 A. If not more with follow-up.

6 Q. And you took the notes that you took  
7 of that interview, you took those -- the more  
8 substantive notes that you took of your  
9 interview of Officer Fontaine occurred in the  
10 second time you spoke to remember?

11 A. Correct.

12 Q. About how long do you recall that  
13 conversation lasting, the second conversation  
14 with Officer Fontaine?

15 A. I don't recall.

16 Q. It is alleged that Officer Fontaine  
17 never said to you that McDonald raised his right  
18 hand toward Van Dyke as if attacking Van Dyke.  
19 What is your response to that allegation?

20 A. It's not true.

21 Q. Did you, during your interview of  
22 Officer Fontaine, include any statements in your  
23 GPR or the CSR that Officer Fontaine did not  
24 make to you the night of October 20th, 2014?

1 A. You're asking me if there's anything  
2 in the General Progress Report or in the summary  
3 of her interview in the report that she didn't  
4 tell me?

5 Q. (Nodding.)

6 A. No, everything that's in those two  
7 reports, she told me.

8 Q. And you took notes of your  
9 conversation with Officer Fontaine?

10 A. Yes.

11 Q. At the scene of the shooting?

12 A. Yes.

13 Q. I'm going to hand you what's been  
14 previously marked as Exhibit 8.

15 This is a GPR of your -- containing  
16 your handwritten notes of your interview of  
17 Officer Fontaine; is that correct?

18 A. Yes.

19 Q. Did you take these notes  
20 contemporaneously to your interview with  
21 Officer Fontaine; that is, when she was  
22 providing you information, were you writing it  
23 down at the same time?

24 A. Yes.

1 Q. And, again, let me ask you, is there  
2 any -- any of the statements that you have  
3 attributed to Officer Fontaine in the Exhibit 8  
4 GPR that she did not make to you?

5 MR. MCKAY: I have to object to the form.  
6 Mr. Neumer, are you asking if these are exact  
7 quotes of Officer Fontaine, or do you understand  
8 that this is a summary prepared by  
9 Detective March of what he learned from  
10 Officer Fontaine?

11 MR. NEUMER: Well, certainly I think we  
12 understand that other than -- I think there's  
13 one phrase that's in quotes that it's not a  
14 direct --

15 MR. MCKAY: Not a verbatim --

16 MR. NEUMER: Not a verbatim --

17 MR. MCKAY: -- word for word.

18 BY MR. NEUMER:

19 Q. I guess what I'm asking is, are any  
20 of the statements attributed to Officer Fontaine  
21 in this Exhibit 8 GPR did you include those  
22 statements even though she did not make them to  
23 you that night?

24 A. No.

1 Q. I'll take Exhibit 8 back.  
2 You spoke to an Officer Janet  
3 Mondragon at the scene of the shooting; is that  
4 correct?

5 A. Yes.

6 Q. Do you recall where you were when you  
7 spoke to Officer Janet Mondragon?

8 A. Somewhere out there on Pulaski Road  
9 on the street near her police vehicle.

10 Q. And, as with Officer Fontaine, you  
11 spoke to Officer Mondragon twice?

12 A. At least twice.

13 Q. At least twice. There was a first  
14 initial conversation with Officer Mondragon?

15 A. Yes.

16 Q. And then you had a more substantive  
17 conversation later on at the scene of the  
18 shooting?

19 A. Well --

20 Q. Do you object to the word  
21 "substantive"? Strike the word, "substantive."  
22 Let me ask a better question.

23 You had a second conversation with  
24 Officer Mondragon at the scene of the shooting,

1 correct?

2 A. Correct.

3 Q. And during that conversation, you  
4 took notes, more substantial notes that would  
5 later become included in your CSR, the Exhibit 5  
6 CSR?

7 A. Yes.

8 Q. Do you recall whether anyone else was  
9 present when you spoke to Officer Mondragon  
10 either the first occasion or second occasion or  
11 any other subsequent occasion?

12 A. No, no one else was present.

13 Q. It is alleged -- Page 2, Roman  
14 numeral IX. It is alleged that  
15 Officer Mondragon never said to you that  
16 McDonald continued to waive a knife as he got  
17 closer to Van Dyke -- Officers Van Dyke and  
18 Walsh. What is your response to that  
19 allegation?

20 A. It's not true.

21 Q. And what's your basis for saying it's  
22 not true?

23 A. She told me those things.

24 Q. Now I will hand you what has

1 previously been marked Exhibit 9, which is a GPR  
2 reflecting your interview of Officer Janet  
3 Mondragon.

4 And I'd ask you, were there any  
5 statements in that Exhibit 9 GPR that you have  
6 attributed to Officer Mondragon that she did not  
7 make to you?

8 A. No.

9 Q. And, again, did you take the notes  
10 that are -- your handwritten notes in Exhibit 9,  
11 did you take these notes as you were  
12 interviewing Officer Mondragon at the scene of  
13 the shooting?

14 A. Yes.

15 MR. MCKAY: Before we continue, Mr. Neumer,  
16 for clarification of the record, you addressed  
17 specifically for the record  
18 allegations 1(a)(viii) and 1(a)(ix).

19 MR. NEUMER: Correct.

20 MR. MCKAY: Which refers to  
21 Detective March's Supplementary Report. You  
22 asked him to identify your Exhibits 8 and 9,  
23 which are the General Progress Reports he  
24 prepared of his two respective interviews of

1 these two ladies, Fontaine and Mondragon, which  
2 I believe are the allegations specified in  
3 allegation 7 and 8. Have we covered those two  
4 allegations then with your questions referencing  
5 those exhibits?

6 MR. NEUMER: You are correct and I thank  
7 you for pointing it out. I was not trying to  
8 mislead. You're right, we covered 7 and 8.

9 BY MR. NEUMER:

10 Q. And what I will ask you,  
11 Detective March, now referring to Exhibit 5 and  
12 your CSRs -- you know what I'm going to do is,  
13 just for the record and for clarity, I want to  
14 go -- I'm going to read in -- even though we  
15 covered this, I'm just going to read in 7 and 8  
16 to the record here.

17 MR. MCKAY: That's fine. And please  
18 understand I'm not suggesting in any way you're  
19 misleading Detective March. It is for my  
20 benefit as I'm reading these allegations that  
21 you are addressing some allegations with  
22 exhibits that pertain to others and just want  
23 the record to be clear.

24 MR. NEUMER: And I honestly appreciate the

1 clarification. It's my fault.

2 BY MR. NEUMER:

3 Q. So it is alleged, Detective March,  
4 that the General Progress Report you completed  
5 on or about October 20th, 2014, concerning your  
6 interview of Officer Fontaine falsely stated  
7 that Fontaine heard POs repeatedly drop the  
8 knife, O ignored, raised arm toward V.D. as if  
9 attacking V.D.

10 What is your response to that  
11 allegation?

12 A. That is not true.

13 Q. Did Officer Fontaine make the  
14 statement to you that she heard -- on the night  
15 of October 20th, 2014, that she heard police  
16 officers repeatedly say, "Drop the knife," that  
17 offender ignored, raised right arm toward  
18 Van Dyke as if attacking Van Dyke, did Fontaine  
19 make that statement to you on October 20th,  
20 2014?

21 A. Not verbatim, but yes.

22 Q. Generally speaking, she made that  
23 statement. Okay.

24 A. Yes, aside from the quote, "Drop the

1 knife."

2 Q. It is alleged that the General  
3 Progress Report you completed on or about  
4 October 20th, 2014, concerning your interview of  
5 Officer Mondragon falsely stated that Mondragon  
6 stated that she heard police officers repeatedly  
7 drop the knife as O got closer and closer to POs  
8 continuing to wave knife.

9 Did over Mondragon make that  
10 statement to you or something substantially  
11 similar to that statement?

12 A. Yes.

13 Q. Okay. And, again, in the Exhibit 5  
14 Case Supplementary Report -- I think we've  
15 covered that.

16 Okay. I'm now going to move on to  
17 Page 2, Roman numeral X of the Notification of  
18 Allegations.

19 It is alleged that in the Exhibit 5  
20 CSR --

21 A. What's the number?

22 Q. Roman numeral X on Page 2 of the  
23 Notification of Allegations.

24 It is alleged that in your Exhibit 5

1 CSR you falsely stated that Officer Walsh  
2 related the same facts to you as his partner,  
3 Officer Van Dyke.

4 What is your response to that  
5 allegation?

6 A. That is -- that allegation is a  
7 misrepresentation of what is stated in the  
8 report.

9 Q. Okay. I guess let's -- do you have  
10 Exhibit 5 in front of you, or do you need a copy  
11 of Exhibit 5?

12 If we go to Page 10 of Exhibit 5 --  
13 and I'm looking at the middle of the page, right  
14 under the name Walsh, Joseph J. There's a  
15 paragraph begins, "Stated he was a Chicago  
16 Police Officer assigned to the 8th District.  
17 Walsh related the same facts as his partner,  
18 Officer Jason Van Dyke."

19 So, again, the allegation is that  
20 Walsh did not relay the same facts as his  
21 partner Officer Jason Van Dyke, and we'd like to  
22 know what your response is to that allegation.

23 A. What is the allegation?

24 Q. So the allegation is that in your

1 CSR -- in Page 10 of your CSR, you falsely  
2 stated that Officer Walsh related the same facts  
3 as his partner Officer Jason Van Dyke.

4 A. Okay.

5 Q. Okay?

6 A. Okay, that's the allegation.

7 Q. That's the allegation. And we --

8 A. Which I assume misrepresentation --

9 Q. -- response to that allegation?

10 A. Well, the report has eight additional  
11 paragraphs of what Walsh said that were unique  
12 to him.

13 Q. Okay.

14 A. So when I use the terminology that he  
15 related the same facts as his partner, I'm  
16 talking about the fact that he was on duty,  
17 working in the 8th District, assigned to Beat  
18 845 Robert. I didn't see any point in  
19 repetitively documenting that information.

20 Q. Okay. So walk me --

21 A. That's why the report says -- it  
22 starts out -- all that foundation information is  
23 the same thing Walsh added, and I go on to  
24 describe what Walsh said that is unique to him.

1 Q. So walk me through what -- and we can  
2 be pretty specific here. When you say, "the  
3 same facts," what facts are you referring to in  
4 that paragraph?

5 A. Everything that gets us up to the  
6 point where Walsh says, "McDonald ran  
7 eastbound." So what their assignment was that  
8 they were working together, who was driving, who  
9 was the passenger, they responded to the call  
10 for assistance, and they drove northbound on  
11 Pulaski. Now when they get to the scene, the  
12 unique statement of Officer Walsh is documented.

13 Q. So let me ask you a different  
14 question. If you go to Page 9 of Exhibit 5 CSR  
15 and at the top is the name Van Dyke, Jason D.,  
16 so then his statement -- the summary of his  
17 statement takes up all of Page 9 and then the  
18 top half of Page 10.

19 Which of these facts -- or these  
20 paragraphs on Page 9 and the top of Page 10 fall  
21 under the same facts -- that, "same facts"?

22 A. Well, I told you, up until the point  
23 where Walsh added that Laquan McDonald ran  
24 eastbound through the Burger King parking lot.

1 So from the point that they got into the Burger  
2 King parking lot and observed Laquan McDonald,  
3 then I --

4 Q. Okay.

5 A. -- then that's where the two  
6 statements diverge.

7 Q. And now we can get -- maybe we can  
8 get a little more specific. So as you look at  
9 Page 9, where do you think that the statements  
10 diverge? And take a moment if you need to.

11 A. Okay, on Page 9, the second paragraph  
12 of Jason Van Dyke, at the point where Van Dyke  
13 says, "As Officer Walsh drove westbound on  
14 40th Street from Pulaski, Van Dyke observed a  
15 black male subject now known as Laquan McDonald  
16 running eastbound in the parking lot of the  
17 Burger King restaurant on the southwest corner  
18 of 40th Street and Pulaski."

19 And that's the point where Walsh adds  
20 that as Laquan McDonald ran eastbound through --  
21 so that's where the two statements --

22 Q. So when you say you related the same  
23 facts, you're referring to the first two  
24 paragraphs on Page 9 of Officer Van Dyke's

1 statement?

2 A. Yes.

3 Q. Is there any way that someone reading  
4 this report would know that you were only  
5 referring to those two paragraphs and not any of  
6 the other paragraphs?

7 MR. MCKAY: I object. He can't possibly  
8 speculate on what a reader is supposed to know  
9 or not.

10 MR. NEUMER: Well, I mean, maybe there's  
11 something that we're not aware of that would  
12 indicate what -- which paragraphs he's referring  
13 to when he talks about same facts.

14 MR. MCKAY: Well, if he understands the  
15 question of course he will answer the question,  
16 it just seems to me that you're question is a  
17 bit unfair.

18 This is a summary. And are you  
19 asking this officer if he is supposed to put  
20 directions in the report to the reader as to  
21 where to go and where to stop and where to pick  
22 up?

23 That, to me, Mr. Neumer, I think that  
24 is just an unfair question, and you're asking

1 him to speculate about what a reader is supposed  
2 to follow in a summary report.

3 BY MR. NEUMER:

4 Q. I guess I -- is there anything in  
5 this report that would indicate, when you refer  
6 to those same facts, that it's the first two  
7 paragraphs of Van Dyke's same statement?

8 A. I can tell you that I've used this  
9 technique in reports for years and have gone to  
10 26th and California and testified in criminal  
11 court, and no one has ever had any problem  
12 understanding what my intent is when I write  
13 these reports.

14 It would seem apparent to me and --  
15 or certainly my intent was that at the point  
16 where Walsh's statement diverge from Van Dyke's,  
17 that is where they no longer are stating the  
18 same facts.

19 Q. So is it your practice to use the  
20 statement, "related the same facts as his  
21 partner," is that a phrase that comes up from  
22 time to time in your report-drafting?

23 A. Yes.

24 Q. And so --

1           A.       It could be two civilians witnesses  
2       that say essentially the same thing. It could  
3       be two police officers.

4 Q. And that's something that you've done  
5 for years?

6           A.       When I was promoted in 1990, I was  
7   taught that it was acceptable that if you have  
8   multiple witness -- because these are not formal  
9   statements like what we are doing here today.  
10  These are summaries of what a person told us  
11  during an interview.

12                   And you have multiple -- some of  
13   these investigations we talk to many, many  
14   people, and rather than typing the same thing  
15   over and over again, if you have people that say  
16   substantially the same facts, it's perfectly  
17   acceptable to say this witness said the same as  
18   that witness instead of typing it all over  
19   again.

20 Q. Do you know if other detectives use  
21 this technique of interview --

22 | A. Yes.

23 Q. -- summarization?

24 | A. -- over the years I've seen it done

1 many times by many different people.

2 Q. So we're going to move on to Roman  
3 numeral XI on Page 2. And it is alleged that in  
4 your Exhibit 5 CSR you falsely stated that  
5 Officer Fontaine related the same facts to you  
6 as her partner Officer Viramontes --

7 A. Wait --

8 MR. McKAY: I object. You directed  
9 Detective March's attention to allegation number  
10 11. That says nothing with what you just read.

11 MR. NEUMER: Apologies. We'll keep --

12 MR. McKAY: Accepted.

13 MR. NEUMER: -- it at Roman numeral XI and  
14 let me strike my last allegation and state --

15 MR. McKAY: Thank you.

16 BY MR. NEUMER:

17 Q. It is alleged that in your Exhibit 5  
18 CSR, you falsely stated that Officer McElligott  
19 related the same facts to you as his partner,  
20 Officer Gaffney. What is your response to that  
21 allegation?

22 A. Again, as in the previous allegation,  
23 number 10, that is a false statement, and it's a  
24 misrepresentation of what the report says.

1 Q. And if I could direct your attention  
2 to Page 12 of the Exhibit 5 CSR, bottom third or  
3 quarter of the page, you'll see the phrase right  
4 under the name McElligott, Joseph P.,  
5 "McElligott related the same facts as his  
6 partner, Officer Thomas Gaffney."

7                                Could you look at Page 11 and 12 of  
8    the Exhibit 5 CSR and like we did previously,  
9    tell us where those two accounts diverged. Or,  
10   put differently, tell us exactly what the same  
11   facts you're referring to in Officer Gaffney's  
12   summary.

13           A.       Okay, referring to Officer Gaffney's  
14       summary, the facts that McElligott stated were  
15       the same is the first paragraph, the second  
16       paragraph, and the third paragraph up to the  
17       point, the third line where it says, "Officer  
18       McElligott exited his police vehicle."

19                   Because in McElligott's statement,  
20   the second paragraph begins, "Officer McElligott  
21   added that after he exited the police vehicle."  
22   So that is the point where the two statements  
23   separate or diverge, whatever term you want to  
24   use.

1 Q. Okay. So now we will go to Roman  
2 numeral XII on Page 13. It is alleged in your  
3 CSR you falsely stated that Officer Mondragon  
4 related the same facts to you as  
5 Officer Sebastian. What is your response to  
6 that allegation?

7 A. That allegation is false. And,  
8 again, it's a misrepresentation of what is  
9 stated in the report.

10 Q. And if I could direct your attention  
11 to Page 13 and 14. At the top of Page 14, the  
12 very first -- very top line says, "Mondragon  
13 related the same facts as her partner, Officer  
14 Daphne Sebastian."

15 If you could review Page 13, Officer  
16 Daphne Sebastian's summary, the summary of the  
17 statement she provided on the night of  
18 October 20th, 2014, and tell me again where  
19 those accounts diverge and, more specifically,  
20 what exactly those, quote, same facts are that  
21 you're referring to Daphne Sebastian's account.

22 A. In Officer Sebastian's account, the  
23 first -- it's basically the first and second  
24 paragraphs that are the same for both officers.

1 The second paragraph ends with, "Mondragon  
2 turned westbound onto 40th Street behind Beat  
3 845 Robert."

4 On Officer Mondragon's interview, in  
5 her second paragraph it begins,  
6 "Officer Mondragon said that as she drove on  
7 westbound on 40th Street," so that is the point  
8 where the two statements diverge.

9 Q. Okay. So Roman numeral XIII, Page 3.  
10 It is alleged in your Exhibit 5 CSR you falsely  
11 stated that Officer Velez related the same facts  
12 to you as her partner, Officer Bacerra."

13 What is your response to that  
14 allegation?

15 A. That allegation is false, and it  
16 misrepresents what is stated in the report.

17 Q. And if I could refer you to Page 14  
18 of the Exhibit 5 CSR. About four-fifths of the  
19 way down the page right, under the name Velez,  
20 Leticia it says, "Velez related the same facts  
21 as her partner, officer Arturo Bacerra."

22 Could you please review the statement  
23 of Arturo Bacerra, which is just above on  
24 Page 14, and identify for the record what the

1 "same facts" you were referring to are in  
2 Bacerra's account.

3 A. In Bacerra's account, the first  
4 paragraph and the beginning of the second  
5 paragraph up to the third line where it -- the  
6 new sentence begins, "As he approached the  
7 scene," it's at that point in the second  
8 paragraph of Officer Velez's interview where it  
9 states, "Officer Velez added that as they  
10 approached the scene she observed." So that's  
11 the point where the two statements separate.

12 Q. Roman numeral XIV, it is alleged in  
13 your CSR you falsely stated that  
14 Officer Fontaine related the same facts to you  
15 as her partner Officer Viramontes.

16 What is your response to that  
17 allegation?

18 MR. McKAY: I have to object. You  
19 misstated your own allegation. Allegation 14  
20 reads differently. You reversed the names of  
21 the officers.

22 MR. NEUMER: Let me take a look at the --  
23 I'll strike that.

24 Last allegation.

1 BY MR. NEUMER:

2 Q. Again, we're at Roman numeral XIV.  
3 It is alleged in your CSR you falsely stated  
4 that Officer Viramontes related the same facts  
5 as his partner Officer Dora Fontaine. What is  
6 your response to that allegation?

7 A. That allegation is false and is a  
8 misrepresentation of what is stated in the  
9 report.

10 Q. And if I could direct your attention  
11 to Pages 14 and 15 of the Exhibit 5 CSR, could  
12 you please identify what specifically the "same  
13 facts" you're referring to in Officer Fontaine's  
14 summary?

15 A. Okay, the first paragraph, and then  
16 at the beginning of the second paragraph. And  
17 on the second paragraph it's the first sentence  
18 really is the end of the same facts.

19 Q. So ending with, "Pulaski Road"?

20 A. Or actually it's the -- it's the  
21 entire second line there, "Officer Viramontes  
22 drove north on Pulaski."

23 Q. Okay.

24 A. The third line of the second

1 paragraph, when they arrived at the scene,  
2 that's where the statements diverge.

3 Q. Okay.

4 MR. NEUMER: Kris, with respect to those  
5 allegations, do you have anything to add?

6 MR. BROWN: I do not.

7 BY MR. NEUMER:

8 Q. We're going to move on to Area  
9 Central. I don't know if you want to take a  
10 break or if you want to just keep --

11 MR. MCKAY: Are you fine?

12 MR. NEUMER: If we were to take a break,  
13 this would be a decent stopping point.

14 THE WITNESS: I was just thinking, I don't  
15 know how long you intend to go. Would this be a  
16 good time to stop for a lunch break?

17 MR. NEUMER: The time is 1:15. We'll go  
18 off the record.

19 (WHEREUPON, discussion was  
20 had off the record and a recess was had  
21 for lunch.)

22 \*\*\* \*\*\* \*\*\*

23 MR. NEUMER: The time is 1:47 p.m., and we  
24 are back on the record.

1 BY MR. NEUMER:

2 Q. We're going to get to Area Central in  
3 just a second. I wanted to ask you, you  
4 mentioned riding around the scene of the  
5 shooting with Deputy Chief McNaughton. I wanted  
6 to know, did you have any discussions regarding  
7 the 813 Robert dash cam video with Deputy Chief  
8 McNaughton while you were doing the ride-around  
9 of the scene?

10 A. No, I don't believe he saw it yet.

11 Q. Okay.

12 A. I don't think.

13 Q. Did you have any conversations with  
14 any of your superiors at the scene of the  
15 shooting regarding the 813 Robert dash cam video  
16 or the Dunkin' Donuts video?

17 A. No, I mean, just to become aware that  
18 it existed. I believe it was Sergeant Gallagher  
19 that told me the squad car video existed and  
20 then Detective Hagen when he recovered the  
21 Dunkin' Donuts video.

22 Q. What's Detective Hagen's first name?

23 A. Richard.

24 Q. And I know we talked a little bit

1 about the team of the detectives that were out  
2 there, and you spoke about how different folks  
3 took on different assignments. Which detectives  
4 played the most prominent role at the scene of  
5 the shooting? In terms of the investigation,  
6 who played the lead roles?

7 A. Well, I mean, I interviewed all the  
8 police officers. Detective Hagen recovered the  
9 Dunkin' Donuts video. The squad car video was  
10 recovered by Sergeant Becvar. I think those are  
11 the most important elements of the  
12 investigation.

13 There were no other eyewitnesses that  
14 we were able to identify to be interviewed that  
15 night.

16 Q. Was there a detective in charge of  
17 like Dunkin' Donuts and getting -- so that was  
18 Detective Hagen who got the --

19 A. Right, he went to Dunkin' Donuts,  
20 right.

21 Q. And then Burger King, was there a  
22 detective in charge of Burger King?

23 A. I don't believe there was anybody in  
24 charge. I believe there were a few detectives

1 that went there.

2 Q. Do you recall their names?

3 A. Not off the top of my head.

4 Q. So from your perspective, Detective  
5 Hagen, obviously yourself, and Sergeant  
6 Gallagher was helping coordinate?

7 A. As the first-line supervisor of  
8 the -- you know.

9 Q. Right. And then any other  
10 detectives?

11 A. I mean, there were many people, you  
12 know, performing support functions, but, you  
13 know, nothing substantial.

14 Q. So those were the people who were  
15 playing the most prominent role?

16 A. I mean, the investigation basically  
17 is Laquan McDonald, Jason Van Dyke, the witness  
18 officers, and the video.

19 Q. Okay.

20 A. I mean, we haven't talked about them,  
21 but the personnel from Forensic Services came  
22 out and processed the crime scene. So they took  
23 video of the scene after the fact, not any video  
24 of the incident.

1 Q. Right.

2 A. Photographs, still photographers. I  
3 believe they prepared a plat and they recovered  
4 all the evidence.

5 Q. Was anyone in charge of coordinating  
6 with forensics?

7 A. I'd have to read through the report.  
8 I believe there was a forensic supervisor on the  
9 scene.

10 Q. Okay. Is that a detective, or is  
11 that...

12 A. They're -- they have -- the people  
13 who actually do the work have two ranks,  
14 forensic investigator, which are -- received a  
15 little more training -- you know, have more  
16 extensive training, and then evidence  
17 technicians, and they're supervised by  
18 sergeants.

19 Q. Okay. So when do you leave the scene  
20 of the shooting? Do you know approximately what  
21 time?

22 A. It was well after midnight. I  
23 couldn't tell what time.

24 Q. And then did you go directly from the

1 scene of the shooting to Area Central?

2 A. I believe I did.

3 Q. How did you get there?

4 A. Get where?

5 Q. To Area Central. Did you drive your  
6 vehicle?

7 A. Drove my car.

8 Q. Was anyone in the car with you?

9 A. At that point, I don't know how  
10 Detective Hagen got to the scene, but it wasn't  
11 with me, but I think by that time, I think he  
12 and I were the last two to leave the scene, and  
13 I think he might have rode back to the office  
14 with me.

15 Q. Okay.

16 A. I don't remember for certain, but I  
17 think he did.

18 Q. Do you recall having any  
19 conversations with Detective Hagen on your way  
20 over to Area Central?

21 A. Not about the investigation.

22 Q. No discussion of like preliminary  
23 thoughts or anything like that?

24 A. No.

1 Q. Okay.

2 A. By that time, we had spent a lot of  
3 time at the scene, we were starting to get  
4 tired. And the reason we were there as long as  
5 we were is, we were pretty much done what we  
6 needed to do at the scene; we were waiting on  
7 the forensics guys to finish all of their things  
8 because we needed to be there to witness  
9 anything in case there was any new developments  
10 regarding the evidence.

11 Q. Got you. So how long did that  
12 forensics process take?

13 A. Hours.

14 Q. Hours. Okay. And so is it fair to  
15 say that you completed your interviews prior to  
16 forensic work being done, or did those overlap a  
17 little bit?

18 A. There was a little overlap. I mean,  
19 they got there when the interviews were still  
20 going on, but they -- I finished the interviews  
21 at the scene long before they finished their  
22 work.

23 Q. And then did -- so you and Hagen --  
24 you and Detective Hagen were some of the last

1 people on scene?

2 A. Right, I think the forensic guys were  
3 just, you know, finishing up odds and ends of  
4 what they were doing, and I don't know that the  
5 street was actually reopened yet, but it was  
6 close to it.

7 Q. You mentioned civilians. Was there a  
8 detective in charge of identifying civilian  
9 witnesses at the scene?

10 A. There were a number of detectives  
11 that participated in the canvass of the scene --  
12 of the area near the scene to attempt to  
13 identify and locate witnesses.

14 Q. Who were the detectives participating  
15 in the canvass?

16 A. I don't know off the top of my head.  
17 I'd have to refer to all the, you know,  
18 general progress reports because --

19 Q. So whatever --

20 A. -- involved with the canvass submit  
21 GPRs, but they're documenting their efforts.

22 Q. Okay. Do you recall coordinating  
23 with those folks at all throughout the -- your  
24 time at the scene of the shooting?

1           A.     Only to the point that they -- I  
2     mean, I spoke with them all, and they all  
3     informed me that they had -- none of them had  
4     interviewed anybody that was making themselves a  
5     witness to the actual shooting of Laquan.

6                     They may have seen part of it or they  
7     didn't see anything, but they're -- obviously if  
8     there was an eyewitness who actually saw the  
9     interaction between Jason Van Dyke and Laquan  
10    McDonald, then they would have brought that  
11    person forward to me to interview, and -- you  
12    know, to get the full picture.

13                    But if it's just people that -- like  
14    there were a couple people at the Burger King  
15    who saw McDonald run by the restaurant maybe and  
16    that was it, but they didn't see the actual  
17    encounter between Van Dyke and McDonald. So  
18    they were -- you could call them circumstantial  
19    witnesses, you know, but they didn't see the  
20    actual encounter so...

21           Q.     Right. And what does that phrase,  
22    "circumstantial witness" mean like for you?

23           A.     Well, in my mind, circumstantial  
24    witness is just that, they're a witness to some

1 circumstance of the event. Like they saw a -- a  
2 couple of people at Burger King saw McDonald run  
3 by the restaurant chased by a police officer,  
4 but they're not eyewitnesses to the actual  
5 encounter between McDonald and Van Dyke.

6 Q. So no -- throughout the time at the  
7 scene, you never got a report, Oh, we got an  
8 eyewitness, Detective?

9 A. I was informed that there were three  
10 people that were potential witnesses, and they  
11 were transported into Area Central. But they  
12 were interviewed by other people, and they  
13 didn't want to stay around.

14 So whatever detectives interviewed  
15 them did GPRs, and when those people requested  
16 that -- you know, they said, We're not going to  
17 stay any longer, they were driven to wherever  
18 they wanted to go.

19 Q. And did you learn about those  
20 individuals while you were still at the scene of  
21 the shooting?

22 A. I learned that there were three  
23 people. I had no idea who they were or what  
24 they were saying, and by the time I got into the

1 office, they had asked to leave, and they were  
2 gone.

3 Q. Do you recall who told you about  
4 those three individuals?

5 A. No, I don't.

6 Q. So you and possibly Detective Hagen  
7 drive to Area Central from the scene of the  
8 shooting?

9 A. I think he may have ridden in my car.

10 Q. And what happened when you -- what's  
11 the first thing that happened when you arrived  
12 at Area Central?

13 A. We continued with the investigation,  
14 with what needed to happen.

15 Q. So what was the -- I think -- what  
16 was the first step that you took from an  
17 investigatory perspective?

18 A. Well, the main thing at that point, I  
19 had already interviewed all the officer  
20 witnesses. There were no civilian witnesses  
21 present at the area, so there really wasn't  
22 anybody for me to interview in that manner.

23 People from Forensic Services,  
24 somebody came in to recover Jason Van Dyke's

1 weapon. All of the four primary officers  
2 involved in the incident, Gaffney, McElligott,  
3 Walsh, and Van Dyke were photographed, just to  
4 document how they looked that night.

5 The offender in this particular case  
6 was deceased, he wasn't in custody, so we  
7 weren't calling Felony Review to seek charges on  
8 anybody. So that aspect of an investigation,  
9 which often happens, didn't exist.

10 And basically the main thing  
11 happening at that point was IPRA was at the area  
12 to take whatever statements that they deemed  
13 necessary.

14 Q. Do you have any recollection as to  
15 what time you arrived at Area Central?

16 A. All I could tell you, like I said, it  
17 was well after midnight.

18 Q. And you said that by the time you  
19 arrived at Area Central, the civilian witnesses  
20 had already left?

21 A. Right, those three people that had  
22 been brought into the office, right, they were  
23 gone.

24 Q. Did someone -- how did you learn that

1 information?

2 A. Someone informed me, but I -- I  
3 couldn't -- I don't remember who.

4 Q. Do you remember who conducted the  
5 interviews of those three civilians?

6 A. I'd have to look at the GPRs.

7 Q. Do you recall getting briefed on  
8 those -- the interview -- and so I think we can  
9 put Exhibit 5 in front of you just as like a  
10 constant reference again.

11 I think the names are Alma Benitez,  
12 Robert Garcia, and Eddie Garcia. Do you recall  
13 being briefed about what those individuals  
14 stated at Area Central?

15 A. From the GPRs that were produced as a  
16 result of their interviews.

17 Q. So how does that -- how does that  
18 work? How do you incorporate another  
19 detective's GPR into your -- can I call it a  
20 CSR; is that fair? Does anyone call them a CSR?

21 A. We call them Supplementary Report or  
22 just Report if you want.

23 Q. Okay. We'll call them Supplementary  
24 Reports.



1 file folder for whoever the primary detective  
2 is.

3 Q. And they'll make sure that the  
4 primary detective gets those GPRs?

5 A. Right, ultimately they get to the  
6 primary detective.

7 Q. So when you are drafting the  
8 Exhibit 5 Supplementary Report, are you working  
9 solely off those GPRs?

10 Let's take those civilian witnesses  
11 for example. Is that what you're working off of  
12 to draft the narrative that's in the Exhibit 5  
13 CSR?

14 A. Well, what is documented in the  
15 General Progress Reports and then what I recall  
16 on my own.

17 Q. Okay. Do you recall -- like do you  
18 ever, once you get a GPR say, Man, I need to  
19 talk to this detective or officer, whoever,  
20 to -- or I guess detective to get a little bit  
21 more of the story here?

22 A. Sometimes there might be a follow-up  
23 question. More likely than -- most often, the  
24 most frequent reason why I would -- why I find

1 myself going back to a detective is I can't read  
2 their handwriting so, What does this say?

3 Q. That makes sense. So with respect to  
4 the Benitez GPR, the Robert Garcia and Eddie  
5 Garcia GPR, do you recall whether you had any  
6 follow-up questions for the detectives who  
7 conducted those interviews?

8 A. I don't recall having any follow-up  
9 questions, no.

10 Q. Do you recall having any  
11 conversations with those detectives regarding  
12 those GPRs or their interviews?

13 MR. MCKAY: I have to pose an objection at  
14 this point. There are no allegations alleged  
15 against Detective March regarding the interview  
16 taking -- strike that -- the interviewing of  
17 these three civilian witness and the reporting  
18 of these three witnesses. So how is this  
19 questioning of these three civilian witnesses to  
20 Detective March relevant?

21 MR. NEUMER: Without like commenting  
22 specifically here, in general some of the  
23 questions we're asking today are relevant to our  
24 investigation and not necessarily directly

1 tied -- not each and every question we ask here  
2 is tied to one of the Notice of Allegations.

3 So I'm not talking specifically here  
4 because I don't want to get into this question  
5 goes here, this question goes there, but  
6 generally I think we can certainly all agree  
7 that questions regarding the interviews of these  
8 witnesses is relevant to what we're looking at,  
9 what the Inspector General's Office is looking  
10 at.

11 MR. MCKAY: I'll agree with you at this  
12 point. You have accused Detective March. You  
13 have not labeled him as a witness, you have  
14 accused him, and we're here regarding the  
15 allegations made against him. Regarding general  
16 investigations and who may have interviewed  
17 other witness, I suggest you talk to those  
18 detectives.

19 MR. NEUMER: No doubt. I mean, this is  
20 all -- I mean, like all this is so intertwined,  
21 that there's no way we can extricate every  
22 question and make sure -- I mean, some of it's  
23 background, some of it's relevant in general,  
24 and it all ties in together.

1                   So, I mean, obviously we only ask  
2   questions that we feel are relevant, and we're  
3   just trying to get to, just as we did at the  
4   scene of the shooting, we're trying to determine  
5   every step along the way that happened with  
6   respect to interviews that occurred at Area  
7   Central. And we have to learn what  
8   Detective March knew or didn't know or who he  
9   talked to there. It all is relevant.

10 MR. McKAY: Well, you allege that  
11 Detective March did not conduct a complete,  
12 thorough, and properly documented and  
13 professional investigation. And he's been on  
14 record now several times telling you that there  
15 were other detectives involved in this case that  
16 did interviews or did other aspects of this  
17 investigation that were documented either by way  
18 of a GPR or perhaps a Supplementary Report, I  
19 don't know.

20                   So, over my objection,  
21 Detective March will answer these questions, but  
22 I just don't see the relevance of this unless  
23 you're alleging some type of misconduct  
24 regarding these civilian witnesses on

1 Detective March.

2 MR. NEUMER: Well, we'll just try to go  
3 through as efficiently as possible here.

4 MR. MCKAY: Thank you.

5 BY MR. NEUMER:

6 Q. Detective March, when you first  
7 arrived at Area Central, you said the civilian  
8 witnesses were no longer present, correct?

9 A. Correct.

10 Q. Who was present? Who was still  
11 present when you arrived at Area Central? Let's  
12 start with the detectives that were working on  
13 this investigation. Who do you recall that was  
14 still at Area Central?

15 A. I don't know how to answer that  
16 question. I -- I mean --

17 Q. I don't want you to guess. If you  
18 remember have you had detectives that were still  
19 at Area Central when you arrived, certainly give  
20 us those names. I don't want you to guess at  
21 who might have been. If you don't know, you  
22 don't know.

23 A. I couldn't tell you specifically what  
24 detectives. I mean, I did not keep a running

1 log of who was present at this location or that  
2 location or when they clocked out for the day  
3 or -- I wouldn't know where to begin to even try  
4 to answer that question.

5 Q. I'm just trying to see what your  
6 independent recollection was. If you had --  
7 sometimes if you remember having conversations  
8 with a particular detective, you can place them.

9 Do you recall which of the officers  
10 who had been present during the shooting were at  
11 Area Central when you arrived?

12 A. I believe all ten of them were still  
13 present at the area when I got to the area.

14 Q. And where were they when you arrived?  
15 Like where in the Area Central headquarters?

16 A. Different parts of the office.

17 Q. Were they all on the second floor?

18 A. Yes.

19 Q. Okay. And understanding that you  
20 don't recall the individual detectives who were  
21 there, do you recall where the detectives were  
22 who were participating in the investigation of  
23 the shooting?

24 A. Somewhere on the floor. I mean, it's

1 a large work area.

2 Q. And IPRA was -- some IPRA  
3 representatives were present?

4 A. Yes.

5 Q. Do you recall any of the names of the  
6 IPRA employees who were present?

7 A. I believe they're documented in my  
8 report.

9 Q. Off the top of your head do you  
10 recall anyone's name?

11 A. I know Investigator Killen was one of  
12 the investigators involved. I'm pretty sure he  
13 was present at the scene, and he may have also  
14 been present at the office, but I can't swear to  
15 it.

16 Q. And IPRA was conducting interviews of  
17 the officers -- were they -- or I'll ask you,  
18 were they conducting interviews of the officers  
19 when you arrived at Area Central?

20 A. I don't remember if they were already  
21 conducting them when I arrived there or if they  
22 were in the middle of it. At some point in time  
23 they were conducting -- taking statements from  
24 the officers.

1 Q. Okay.

2 A. They didn't take statements from all  
3 of the officers. The ones that they thought --  
4 they determined were more -- most important to  
5 them, I guess. And the other officers, they  
6 just scheduled them for normal business hours,  
7 their interviews or statements.

8 Q. With respect to detectives, I just  
9 want to throw a couple names at you. Do you  
10 recall having any conversations with a Detective  
11 Torres while you were at Area Central the night  
12 of the shooting?

13 A. I remember Detective Torres was  
14 involved in the investigation. I do not recall  
15 specifically speaking with him that night.

16 Q. Detective Curran, are you familiar  
17 with that name?

18 A. Yes, same thing, he was involved in  
19 the investigation. I do not recall specifically  
20 speaking with him that night.

21 Q. Do you know what role Detective  
22 Torres played with respect to the investigation?

23 A. I believe he interviewed one of  
24 the -- at least one of those civilian witnesses.

1 Q. And do you know what role Detective  
2 Curran played with respect to the investigation?

3 A. Same thing. I believe he interviewed  
4 at least one of those civilian witnesses.

5 Q. Do you know whether those civilian  
6 witnesses were shown video of the McDonald  
7 shooting?

8 A. I had -- don't have any personal  
9 knowledge of that.

10 Q. Did you ever instruct any detectives  
11 that were working on the investigation not to  
12 show video of the shooting to any civilian  
13 witnesses?

14 A. No.

15 Q. Did you ever hear from anyone,  
16 whether at Area Central or scene of the  
17 shooting, that civilian witnesses had been  
18 threatened with arrest if they didn't come to  
19 Area Central?

20 A. No, I never heard that.

21 Q. Are there circumstances where it's  
22 appropriate to arrest witnesses to a shooting to  
23 ensure you can obtain their testimony?

24 MR. McKAY: Object. What are you -- can

1 you rephrase your question? I don't understand  
2 that question.

3 MR. NEUMER: Okay.

4 BY MR. NEUMER:

5 Q. In your experience, are there times  
6 where it is appropriate to threaten or arrest  
7 witnesses to a shooting in order to obtain a  
8 statement from them?

9 MR. MCKAY: I object. There's no evidence  
10 that was done in this case, so how is  
11 questioning regarding any other cases, whether  
12 this gentleman knows or not, relevant to the  
13 investigation of the shooting here today?

14 MR. NEUMER: What I'm looking for is like  
15 sort of policies and procedures, if that would  
16 violate policies and procedures, or if that's  
17 accepted in terms of something that might have  
18 to be done.

19 Can we read back the question.

20 (WHEREUPON, the record was  
21 read by the reporter.)

22 MR. MCKAY: I object.

23 BY THE WITNESS:

24 A. Am I aware if there's situations or

1 instances where that would be appropriate,  
2 that's your question?

3 BY MR. NEUMER:

4 Q. Yes.

5 A. No, I'm not aware of such things.

6 Q. Did you ever hear at any time,  
7 whether at Area Central on the night of the  
8 shooting or subsequently, that civilian  
9 witnesses were being denied lawyers?

10 A. Never heard that.

11 Q. Did you ever hear at Area Central or  
12 subsequently that civilians were being told by  
13 detectives that their account of the shooting,  
14 McDonald shooting were incorrect?

15 MR. MCKAY: I have to object. You're  
16 asking an accused whether he heard anything on  
17 the street, so to speak, about some alleged  
18 misconduct, if it is misconduct, by some mystery  
19 person. That's not fair.

20 Do you have any evidence that this  
21 detective or anybody this detective has  
22 knowledge of was doing any of these things to  
23 any of these people?

24 MR. NEUMER: Counsel, I think the question

1 is eminently fair. All I'm asking is --

2 THE WITNESS: I don't. I don't.

3 MR. NEUMER: -- whether he at any time at  
4 Area Central --

5 MR. McKAY: For example, let me just say  
6 this, Peter: You asked Detective March if did  
7 he ever hear if witnesses were threatened with  
8 arrest. He says no. You asked him did he ever  
9 hear if witnesses were denied lawyers, okay? He  
10 said, no, he doesn't know. Did he hear this; he  
11 said no.

12 Are you going to ask him if he even  
13 heard witnesses were asking for lawyers? I  
14 mean, we could go on and on and on just  
15 speculating with this stuff, but your  
16 allegations are pretty specific against this  
17 detective. None of your allegations mention  
18 anything that you're asking about now and asking  
19 this gentleman to speculate about it.

20 MR. NEUMER: We're trying to determine  
21 Detective March's knowledge. I mean, I don't  
22 want -- if there's a better way to ask the  
23 question, I'm all ears --

24 MR. McKAY: He told you he did not speak to

1 these civilian witness; they were gone when he  
2 arrived. You want to pose these questions to  
3 Torres and Curran, who I believe the evidence  
4 has shown they may have talked to civilian  
5 witnesses, that's up to you.

6 MR. NEUMER: I don't want to argue, but if  
7 Detective March learned of it, then we need to  
8 know.

9 And I think it's a broad question.  
10 It could be -- I mean, it's a broad question,  
11 but I think it's a completely fair question  
12 because the answer is going to be either yes or  
13 no. And if it's yes, we'll follow up; and if  
14 it's no, it's no.

15 MR. MCKAY: Well, again, Pete, you're  
16 assuming that these things happened and whether  
17 this gentleman who is here under oath heard  
18 about these things.

19 MR. NEUMER: I am asking. And the only way  
20 we can determine is by asking.

21 BY MR. NEUMER:

22 Q. So, Detective March, at any time --

23 THE WITNESS: Can we take a break?

24 MR. NEUMER: Sure. The time is 2:15 p.m.

1 (WHEREUPON, a recess was had.)

2 MR. NEUMER: Time is 2:17 p.m. and we'll go  
3 back on the report.

4 BY MR. NEUMER:

5 Q. Detective March, at any time on the  
6 night of October 20th, 2014, or thereafter did  
7 Detective Curran or Detective Torres inform you  
8 that they were telling civilians their accounts  
9 of the shooting, the witnesses' accounts were  
10 incorrect?

11 MR. MCKAY: I have to object. Again, based  
12 on the letter by Interim Superintendent John  
13 Escalante and the reference memo by Sergeant  
14 Soria, none of this, none of this that you are  
15 asking right now, Mr. Neumer, is supported by  
16 that letter or by Sergeant Soria's memo.

17 And none of the allegations you have  
18 given to this detective mention anything  
19 regarding witnesses' accounts to other  
20 detectives, whether there were threats, whether  
21 lawyers were asked for or denied. None of this  
22 has been served notice on this particular  
23 detective, and I'm objecting to all of these  
24 questions.

1                   This man is an accused and -- your  
2   office has accused this man based on Escalante's  
3   and Soria's letter and memo respectively and  
4   none of this makes mention of any of this stuff.

5 He is entitled to notice, and he  
6 isn't given. And now you're asking him to  
7 speculate about things that you don't even know  
8 exist. That's not the purpose of this  
9 statement. He's going to answer all your  
10 questions because he's been given a direct order  
11 by a supervisor, but it is unfair and it  
12 prejudices him if he's asked to speculate about  
13 things that you are fishing for. Do you agree?

14 MR. NEUMER: I will interpret this as a  
15 standing objection to this line of questioning.  
16 If there's anything more you want to add to the  
17 record, the floor is yours, but then I'll  
18 proceed with my line of questioning.

19 MR. McKAY: I made my record.

20 MR. NEUMER: Okay.

21 BY MR. NEUMER:

22 Q. Detective March, at any time on the  
23 night of October 20th, 2014, or thereafter, did  
24 Detective Curran or Detective Torres inform you

1 that they were telling civilians their accounts  
2 of the shooting were incorrect?

3 A. No, I don't recall anything like that  
4 happening.

5 Q. At any time on the night of  
6 October 20th, 2014, or thereafter, did you learn  
7 that civilians were claiming that the account of  
8 the McDonald shooting they provided CPD was  
9 different than the account attributed to them in  
10 the Exhibit 5 CSR?

11 A. No, I don't recall that.

12 Q. Did you ever see any news accounts  
13 regarding the civilian witnesses who were at  
14 Area Central the night of October 20th, 2014?

15 MR. MCKAY: Wait, I have to object. Are  
16 you suggesting that a news account of a witness  
17 is evidence?

18 MR. NEUMER: I'm asking my question. I'm  
19 asking if he's aware of --

20 MR. MCKAY: I asked you earlier, Peter, if  
21 you had any people that you could identify to  
22 this detective who you have accused who had  
23 provided affidavits and are the sources of any  
24 allegation against this detective. And you said

1 there were none. You said that Inspector  
2 General Ferguson had brought authority based on  
3 Escalante's letter.

4 And we asked for and demanded that if  
5 there were any additional accusers that were not  
6 sworn officers, provide them to us  
7 now -- identify them and provide us their  
8 affidavits to support any of these allegations.

9 And now I ask again, provide us with  
10 any sworn affidavits by any civilian witnesses  
11 that are supporting even these questions to this  
12 detective regarding alleged witnesses he never  
13 talked to. Do you have them now?

14 MR. NEUMER: We have provided the letter,  
15 the affidavit that's required under the CBA.

16 MR. McKAY: What affidavit?

17 MR. NEUMER: Sergeant Soria's.

18 MR. McKAY: Sergeant Soria is a sworn  
19 officer. He doesn't have to provide an  
20 affidavit.

21 MR. NEUMER: You know, again, objections,  
22 please put them on the record --

23 THE WITNESS: I am.

24 MR. NEUMER: -- I'm trying to get through

1 this --

2 MR. MCKAY: We are on the record.

3 MR. NEUMER: Okay. If there's any  
4 additional questions --

5 MR. MCKAY: Yeah, I'm asking do you have  
6 affidavits from civilian witnesses or affidavits  
7 from other non-sworn police officers supporting  
8 these questions and these allegations?

9 MR. NEUMER: We do not have sworn  
10 affidavits from individuals not named as our  
11 complainants.

12 BY MR. NEUMER:

13 Q. So Detective March, at any time did  
14 you become aware of news accounts in which  
15 civilians claimed the account they provided of  
16 the McDonald shooting was different than the  
17 account attributed to them in the Exhibit 5 CSR?

18 A. I don't recall.

19 Q. You don't recall?

20 A. I don't recall news reports like  
21 that.

22 Q. When you first arrived at Area  
23 Central, who did you speak to first?

24 A. I don't recall.

1 Q. What was your first investigative  
2 activity that you engaged in once you arrived at  
3 Area Central?

4 A. I don't recall what the first thing I  
5 did or the second thing I --

6 Q. Okay. Can you walk us through some  
7 of the investigatory steps you took while you  
8 were at Area Central. Understanding that maybe  
9 you can't place them in the exact order they  
10 occurred.

11 A. I collected whatever documentation I  
12 could from all of the police personnel involved  
13 in the investigation, including the original  
14 case report that was authored by an 8th District  
15 beat car; the Forensic Services people, reports  
16 of their activities; the GPRs from any other  
17 detectives that had submitted GPRs.

18 I conferred with Sergeant Gallagher,  
19 again, multiple times just coordinating the  
20 activities at the office there.

21 Q. Was Lieutenant Wojcik at the scene at  
22 Area Central when you were there?

23 A. I believe at some point he arrived at  
24 the area, but, again, I don't remember when.

1 Q. Did you conduct interviews while you  
2 were at Area Central on the night of the  
3 shooting?

4 A. Ultimately or eventually I did do --  
5 I did reinterview Officer Van Dyke.

6 Q. Okay. Did you interview anyone else  
7 at Area Central that night?

8 A. No, I don't recall conducting any  
9 other reviews at the area.

10 Q. Were you present -- well, so I think  
11 you mentioned earlier that the 813 Robert dash  
12 cam video was being shown to certain individuals  
13 or was being made available to be viewed -- walk  
14 me through that so I don't misstate your words.

15 A. The video had been uploaded by  
16 Sergeant Becvar from the vehicle up -- into the  
17 system, server, whatever you want to call it.  
18 And someone had pulled it up on one of the  
19 computers in the office so that it was available  
20 that anyone who wanted to or needed to refer to  
21 it for whatever reason, it was available.

22 I know I looked at it on more than --  
23 more than one time I looked through it just to  
24 make sure I had a good comprehension of what was

1 shown on the video. I may have personally told  
2 the police officers, once I was aware it was on  
3 the video -- or up on the computer, that if they  
4 needed to, it was there as a reference for them.  
5 And I know a number of people viewed it.

6 Q. Who do you know viewed the video at  
7 Area Central that night?

8 A. Well, I know I viewed it. I know  
9 Gallagher viewed it. Past that I couldn't say  
10 with absolute certainty who else, but I know a  
11 number of people went into that office to -- I'm  
12 assuming the only reason to go into that office  
13 at that point in time was to view the video.  
14 That was the only thing going on really at that  
15 point in time.

16 Q. Okay. And was this a side office  
17 on -- on the second floor? Or tell me where  
18 that is.

19 A. Yeah, there's a large work area on  
20 the second floor, and there's offices along the  
21 side, and this was one of the side offices.

22 Q. And there was a laptop in that office  
23 or --

24 A. A --

1 Q. -- was it a desktop?

2 A. A desktop.

3 Q. So could anyone walk in there at any  
4 time and kind of click on the video and watch it  
5 for themselves?

6 A. Well, any police personnel.

7 Q. Any police personnel, sorry. Yeah.  
8 That's how it was?

9 A. I mean, it's not -- it's not a public  
10 area --

11 Q. No. No, I just meant that there  
12 wasn't a locked door to this office that you  
13 recall?

14 A. No.

15 Q. And a police officer -- say one of  
16 the police officers on the scene, they wouldn't  
17 have needed like an escort to this room or  
18 someone to guide them through watching this  
19 video?

20 A. I mean, I -- they wouldn't need an  
21 escort to get to the office. Not everyone has  
22 the same technical expertise with computers, so,  
23 I mean, if someone didn't know how to play the  
24 video or what to click on, they might have to

1 ask somebody to do that. But it wasn't like  
2 access was restricted that, no, you can't see  
3 it.

4 Q. I understand. Was a detective in the  
5 room with -- was there a detective in the room  
6 at all times where that video was being -- was  
7 made available?

8 A. No.

9 Q. Okay. So at times maybe the room was  
10 empty?

11 A. Yes.

12 Q. Okay. Were you present for any  
13 showings of the video with other individuals, or  
14 did -- let me phrase it differently.

15 Every time you watched the video,  
16 were you alone at Area Central?

17 A. On some occasions there might have  
18 been someone standing behind me that was  
19 curious -- standing behind me who was curious  
20 that was also watching it, but I did not  
21 specifically go in there with anyone to watch it  
22 or anything.

23 When I had a question come up where I  
24 felt I needed to view it, I went in there. If

1 there was someone in the office, I didn't ask  
2 them to leave. If someone followed me in there  
3 or, like I said, if somebody was curious and  
4 wanted to see the video, they might have been  
5 looking over my shoulder.

6 Q. Do you recall having any  
7 conversations with individuals the night of the  
8 shooting at Area Central while they were  
9 watching the video of the shooting?

10 A. No, I don't recall that.

11 Q. Did you document anywhere in the  
12 Exhibit 5 CSR where individuals watched -- not  
13 where. Whether individuals watched the  
14 813 Robert dash cam video?

15 A. No.

16 Q. I'm going to go to the Notice of  
17 Allegations. Page 3, number two near the  
18 bottom, it is alleged that on or about  
19 October 20th, 2014, and October 21st, 2014, you  
20 engaged in witness tampering by showing  
21 witnesses to the McDonald shooting a video of  
22 the shooting and attempting to influence the  
23 testimony of those witness as they viewed the  
24 video.

1                   What is your response to that  
2   allegation?

3 MR. MCKAY: Before he answers, I would  
4 object to the lack of foundation in this  
5 allegation. Nowhere in this allegation does it  
6 refer to who these witnesses or witness may be,  
7 what, if anything, is being said to these  
8 witnesses, assuming things were being said to  
9 the witness. It assumes -- there's no  
10 allegation as to where because it shows both the  
11 date of October 20th and October 21st, and are  
12 we talking about at the scene of the shooting or  
13 at Area Central.

14                   So there's a complete lack of  
15 foundation for that allegation of which,  
16 without, Detective March's incapable of  
17 answering completely. And he's trying to answer  
18 all of your questions honestly and completely,  
19 but because the way the allegation is phrased  
20 and the lack of foundation, the question is  
21 unfair and inappropriate.

22 BY MR. NEUMER:

23 Q. Well, let me rephrase --

24 MR. MCKAY: Thank you.

1 BY MR. NEUMER:

2 Q. -- and say at Area Central. And the  
3 reason it's on or about October 20th, 2014, and  
4 21st is because there's a little -- it's a  
5 little difficult to know when exactly things  
6 happened. So it might have been late on the  
7 night of October 20th, could have been early on  
8 the night of October 21st, 2014?

9 At Area Central it is alleged you  
10 engaged in witness tampering by showing  
11 witnesses the McDonald shooting, the video of  
12 the shooting any attempting to influence the  
13 testimony of those witness as they viewed the  
14 video.

15 What is your response to that  
16 allegation?

17 MR. McKAY: My further objection is the  
18 foundation lacks as to whom? Who are you  
19 talking about, Mr. Neumer? And when you say  
20 attempt to influence, how?

21 MR. NEUMER: The question stands.

22 BY MR. NEUMER:

23 Q. So it's your opportunity to respond  
24 to the allegation.

1           A.     I will be happy to answer your  
2     question, but I would just like to raise a point  
3     of my own. This is the United States of  
4     America. I'm United States citizen. The  
5     Department has very specific rules and  
6     regulations regarding the conduct of any  
7     disciplinary investigations, not to mention the  
8     Collective Bargaining Agreement. And you're  
9     saying this conduct is alleged. Am I -- are you  
10    saying I'm not allowed to know who is alleging  
11    this?

12           Q.     No, I'm simply posing the question.

13           MR. MCKAY: The question, I would  
14    respectfully suggest to you, is that -- this is  
15    just a conclusion you or your boss has made or  
16    some other agent here in the Inspector General  
17    has made.

18                   He's entitled to know who, if anyone,  
19    supports this conclusion that the Inspector  
20    General is making only it's just phrased in the  
21    form of a question.

22           BY MR. NEUMER:

23           Q.     I'm going to give you -- I'm going to  
24    read the allegation one more time and give you

1 one more opportunity to respond to the  
2 allegation. I can't force you to respond to the  
3 allegation --

4 A. The answer to your question is that,  
5 no, I did not engage in this behavior that's  
6 being alleged.

7 My question to you still stands,  
8 though: Am I not permitted -- am I not entitled  
9 to know who is making this very specific  
10 allegation?

11 Q. We have provided notice pursuant to  
12 the CBA, pursuant to our authority, and that's  
13 the answer.

14 MR. MCKAY: And you know, Peter, that we  
15 object to that notice. We don't believe that  
16 that notice is sufficient.

17 Your allegation number two is  
18 alleging that this man engaged in witness  
19 tampering by showing witnesses to the shooting a  
20 video and attempting to influence the testimony  
21 of those witnesses.

22 We are asking, again, who are these  
23 witnesses and what, if anything, do you mean  
24 when you say attempting to influence the

1 testimony of these witnesses?

2 We ask that you be more specific,  
3 that's all. He is answering your questions. He  
4 is following this direct order, but he has a  
5 right to know exactly specifically who supports  
6 this allegation.

7 What do you mean by witnesses,  
8 plural? Who are they, and what do you mean by  
9 "attempting to influence the testimony of these  
10 witnesses"?

11 MR. NEUMER: Yeah, I mean, I think the  
12 influencing testimony I think is pretty  
13 specific, but Detective March has denied the  
14 allegation --

15 MR. MCKAY: Categorically denies the  
16 allegations. If you can be more specific, he  
17 will provide further statements that will deny  
18 it.

19 But, again, I can only assume -- and  
20 I'm only acting as his advocate. He's here to  
21 answer your questions, Peter. Without any  
22 specificity, he can only say this didn't happen.  
23 And that should be good enough, I guess, but,  
24 again --

1 MR. NEUMER: Well, then --

2 MR. McKAY: -- he's being asked to defend  
3 against generalizations not supported by any  
4 specific facts.

5 MR. NEUMER: The question has been asked  
6 and the question has been answered.

7 BY THE WITNESS:

8 A. And I would just like to ask one more  
9 time, Sergeant Soria, I did not see anything in  
10 writing that says Sergeant Soria is alleging I  
11 engaged in this conduct, and I have not seen  
12 anything in writing saying that John Escalante,  
13 the Interim Superintendent, is alleging this  
14 specific allegation. So I ask once again, could  
15 I please know who is making this specific  
16 allegation of criminal conduct against me, and  
17 are you saying I have no right to know that, who  
18 that person is?

19 BY MR. NEUMER:

20 Q. As I stated before, the Inspector  
21 General's Office has provided Notice of  
22 Allegations to you pursuant to the Collective  
23 Bargaining Agreement and has followed all  
24 applicable law.

1 A. I don't believe that's true.

2 Q. Okay. You mentioned you interviewed  
3 Officer Van Dyke at Area Central; is that  
4 correct?

5 A. Yes.

6 Q. What was the purpose of that second  
7 interview -- sorry, not second interview. What  
8 was the purpose of that Area Central interview?

9 A. He was the principal member involved  
10 in this incident, and I wanted to make sure I  
11 had all of the details from him that I needed to  
12 be thorough and complete.

13 Q. Did you interview any of the other  
14 officers who were present at the scene at Area  
15 Central?

16 A. No.

17 Q. Did you request that he speak to you  
18 for an interview? How did that -- did you say,  
19 Officer Van Dyke, I'd like to speak with you  
20 again? Or how did you let him know that you  
21 wanted to interview him again?

22 A. Yes, something along those lines. I  
23 had the GPRs that I had prepared out at the  
24 scene, so I wanted to go through those again to

1 make sure I had recorded everything correctly  
2 and accurate.

3 Because I talked to him shortly after  
4 the incident occurred, it was a traumatic  
5 incident. People in general -- and police  
6 officers are just like people in general --  
7 everyone responds in a different manner. And  
8 after a traumatic incident, people are stressed  
9 out so maybe they don't always remember  
10 everything. Sometimes their thoughts are flying  
11 through their head, you know.

12 I wanted to sit down with him now  
13 hours later, after everything had calmed down,  
14 and make sure that what I had heard on the scene  
15 and what I had -- the notes I had taken on the  
16 scene were accurate in terms of his recollection  
17 of the incident and if there was anything else  
18 he had -- he had recalled that needed to be  
19 documented.

20 Q. Where did that interview take place?

21 A. It was in Area Central up on the  
22 second floor.

23 Q. Was it in one of the side offices  
24 or --

1 A. Yes, one of the side offices.

2 Q. Was anyone else present during that  
3 interview?

4 A. Sergeant Gallagher was present for  
5 most of the interview. I believe he got called  
6 out a couple of times because of his other  
7 responsibilities, but he was present for most of  
8 that interview.

9 Q. Anyone else other than Sergeant  
10 Gallagher?

11 A. No, it was just the three of us.

12 Q. And did you ask him to provide a  
13 narrative of the shooting incident?

14 A. Yes.

15 Q. And did he provide a narrative?

16 A. Yes.

17 Q. Did you take notes when he was  
18 providing that narrative?

19 A. As I said, I had the notes I had  
20 taken before, and I was comparing them to what  
21 he was saying now to make sure I had them  
22 accurately down, and then anything he added in  
23 addition to that, I created a new GPR with those  
24 notations.

1 Q. So I'm going to hand you what has  
2 been previously marked as Exhibit 10. And this  
3 contains the October 20th, 2014, GPR as well as  
4 the October 21st, 2014, GPR.

5 (WHEREUPON, the document was  
6 tendered to the witness.)

7 BY MR. NEUMER:

8 Q. And looking at Page 4 of Exhibit 10,  
9 is that the GPR that you prepared -- or that you  
10 made at Area Central?

11 A. Yes.

12 Q. And at the top it says, "same  
13 details"?

14 A. Yes.

15 Q. Is that what you wrote when he was  
16 providing his narrative of the shooting to you?

17 A. Yes.

18 Q. Did Officer Van Dyke introduce any  
19 new facts when he was providing that narrative  
20 to you, new facts compared to the October 20th  
21 GPR, the first three pages of Exhibit 10?

22 A. Yes.

23 Q. Did he provide any new facts  
24 regarding -- okay. And so those new facts are

1 what's on Page 4, "aware of radio transmission,"  
2 "armed with knife," and the information that's  
3 below there?

4 A. Correct.

5 Q. With respect to the three pages --  
6 the first three pages, the October 20th, 2014,  
7 GPR in Exhibit 10, did anything he said at Area  
8 Central differ?

9 Put aside the new facts that are on  
10 Page 4 of that GPR. Did any of the facts that  
11 he initially stated to you at the scene of the  
12 shooting, did his account differ at all from  
13 those facts?

14 A. No.

15 Q. Did you purposely not take notes when  
16 he was relating his narrative of the shooting in  
17 order to prevent him from making inconsistent  
18 statements?

19 A. No.

20 Q. Did you show Van Dyke the video, the  
21 813 Robert dash cam video at Area Central?

22 A. I did not.

23 Q. Do you know if he saw the 813 Robert  
24 dash cam video while he was at Area Central?

1 A. I can't say specifically that I know  
2 he did.

3 Q. Do you think that -- did you consider  
4 showing him the video?

5 A. The video was available for anyone  
6 who wanted to if they felt they needed to. I  
7 had no need to show him the video and ask him  
8 any questions based off of the video itself.

9 Q. Do you think that would have assisted  
10 him in recollecting the events that occurred on  
11 the night of the 20th?

12 MR. McKAY: I have to object. It calls for  
13 this man to speculate about somebody else's  
14 state of mind.

15 BY MR. NEUMER:

16 Q. I'm just looking for your  
17 investigatory process. You could have shown him  
18 the video, right, if you had wanted to?

19 A. Yes, and if I thought there was a  
20 reason to, I would have.

21 Q. You just thought -- you didn't see a  
22 reason to show him the video?

23 A. Right. If he had needed -- if he  
24 felt he needed to see it, it was available to

1 him. I didn't see any need for me to show it to  
2 him.

3 Q. He didn't request at any time to see  
4 the video?

5 A. Not during his talk -- not during any  
6 discussions he had with me.

7 Q. In your GPR, in the October 21st GPR  
8 and also in the Exhibit 5 CSR that summarizes  
9 the GPR, there's mention made of a 21-foot rule.  
10 What is the 21-foot rule?

11 A. Well, as I understand it, use of  
12 force experts, defensive tactics instructors  
13 made me aware of this -- and I don't know the  
14 technical terms or the name or anything -- but  
15 there's basically a teaching in law enforcement  
16 that a subject who's armed with a knife, if he  
17 is within 21 feet of you and your weapon is  
18 holstered, he is considered a deadly threat  
19 because it is very possible for him to close  
20 that distance of 21 feet and attack you with the  
21 knife before you can draw your weapon and fire a  
22 defensive shot. That's my understanding of the  
23 so-called 21-foot rule.

24 Q. Were you aware of the 21-foot rule

1 prior to your Area Central interview of  
2 Officer Van Dyke?

3 A. Yes, I was.

4 Q. Did you at any time in your Area  
5 Central interview of Officer Van Dyke provide  
6 Officer Van Dyke any information about the  
7 21-foot rule?

8 A. No.

9 Q. That was information that he related  
10 to you?

11 A. Yes.

12 Q. Did he say where he became aware of  
13 the 21-foot rule?

14 A. No.

15 Q. Did Officer Van Dyke mention the  
16 21-foot rule to you at any time at the scene of  
17 the shooting?

18 A. No.

19 Q. Did you find it odd that he failed to  
20 mention the 21-foot rule at the scene of the  
21 shooting but then brought it up at Area Central?

22 A. No, in fact, as I said before, that  
23 was the purpose of this new interview at the  
24 office was in case there was anything -- now

1 that time had gone by for him to decompress and  
2 calm down, to see if there was anything else he  
3 remembered.

4 Q. And what he was saying to you was  
5 that he was aware of the 21-foot rule during his  
6 encounter with Laquan McDonald; is that correct?

7 A. Correct.

8 Q. Okay. Did you ever think that he  
9 was, by mentioning the 21-foot rule, trying to  
10 justify his shooting?

11 A. No, I never thought of that. I  
12 thought his -- the shooting was justified from  
13 shortly after speaking to him and watching the  
14 video in the squad car myself.

15 Q. Did you ever have any doubts as to  
16 whether Officer Van Dyke was aware of the  
17 21-foot rule when he shot Laquan McDonald?

18 MR. McKAY: I have to object to that  
19 question in that, again, you're asking this man  
20 to speculate about another man's state of mind.

21 So over my objection, if the witness  
22 understands.

23 BY THE WITNESS:

24 A. Can you repeat the question, please.

1 MR. NEUMER: Sure. Can we read the  
2 question back.

3 (WHEREUPON, the record was  
4 read by the reporter.)

5 BY THE WITNESS:

6 A. Did I ever have any doubt that he was  
7 aware at the time he fired his shots?

8 BY MR. NEUMER:

9 Q. (Nodding.)

10 A. No, I had to reason to doubt it. I  
11 know that's a very wide theory, if you will, or  
12 teaching in law enforcement.

13 Q. Did you ever receive any indication  
14 that someone had told Officer Van Dyke to  
15 reference the 21-foot rule?

16 A. No.

17 Q. In your -- in the GPR that contains  
18 your notes of the Area Central interview and the  
19 CSR there's made mention of revolver knives I  
20 think. Prior to your Area Central interview of  
21 Officer Van Dyke, were you aware that there were  
22 knives capable of firing bullets?

23 A. You're asking me if before this  
24 interview was I aware?

1 Q. (Nodding.)

2 A. I would have to say, no, I can't say  
3 I was aware of that before -- prior to this  
4 interview.

5 Q. Were you aware of Safety Alert  
6 2012-OSA-297 prior to your Area Central  
7 interview of Officer Van Dyke?

8 A. No, not prior to that interview, no.

9 Q. At any time during your Area Central  
10 interview or prior to did you provide  
11 information to Van Dyke about knives capable of  
12 firing bullets?

13 A. Well, if I didn't know about them, I  
14 don't think I could provide that information to  
15 anyone, including Jason Van Dyke.

16 Q. Did you ultimately track down the  
17 Officer Safety Alert 2012-OSA-297?

18 A. Right, someone in our office went and  
19 ultimately did a search of the -- they're  
20 called -- it's the Administrative Message Center  
21 where Officer Safety Alerts are distributed  
22 nationwide for officer's safety, and they were  
23 able to find the alert that I cited.

24 Q. Did Officer Van Dyke at the scene of

1 the shooting make any reference to safety alert  
2 number 2012-OSA-297?

3 A. No.

4 Q. Did he make any reference at the  
5 scene of the shooting to you regarding knives  
6 capable of firing bullets?

7 A. At the scene?

8 Q. Yeah.

9 A. No.

10 Q. Did you find it odd at all that  
11 immediately following the shooting Van Dyke made  
12 no mention of revolver knives but hours later he  
13 did?

14 A. No, as I said, I've been involved  
15 with a number of police officer-involved  
16 shootings, and it's very common for officers to  
17 remember more things after some time has gone by  
18 and they've had time to decompress.

19 Q. Did you have any suspicions that  
20 someone told Officer Van Dyke to mention that  
21 safety alert?

22 A. No, there was nothing to make me  
23 suspect that.

24 Q. We're going to go to the allegations.

1 It is Roman numeral VII on Page 2.

2 It is alleged that on or about October 21st,  
3 2014, you and Officer Van Dyke created a false  
4 justification for the shooting of Laquan  
5 McDonald and included that false justification  
6 in the Case Supplementary Report you submitted  
7 on or about March 15, 2015, with the sup ID  
8 10992767 CSR 301.

9 What is your response to that  
10 allegation?

11 MR. McKAY: I have to object to this  
12 allegation for lack of specificity. Again, we'd  
13 like to know where is the evidence supporting  
14 this mere conclusion the Inspector General has  
15 made in subsection 7 of allegation 1(a)?

16 MR. NEUMER: You can -- I mean, I think  
17 what we've just been talking.

18 MR. McKAY: Are we talking about the knife  
19 firing bullets and this bulletin? Is that the  
20 sum and substance of this allegation contained  
21 in subsection 7?

22 MR. NEUMER: What we have is, we've given  
23 the GPR, we've given the CSR. Question stands.

24

1 BY MR. NEUMER:

2 Q. It is alleged that on or about  
3 October 21st, 2014, that you and  
4 Officer Van Dyke created a false justification  
5 for the shooting of Laquan McDonald and included  
6 that false justification in the Case  
7 Supplementary Report you submitted on or about  
8 March 15, 2015.

9 What is your response to that  
10 allegation?

11 MR. MCKAY: Again, I -- he'll answer your  
12 question, Peter, but my objection is, what  
13 specific facts support this allegation, which is  
14 a mere conclusion? What. What did -- what do  
15 you allege Detective March and Officer Van Dyke  
16 did specifically to create this false  
17 justification as your office has alleged?

18 If you mean this knife that shoots  
19 bullets and the bulletin in the GPR which is the  
20 fourth page of Exhibit 10, then he's on notice,  
21 okay? Is it just this, or is it anything more  
22 than this? That's the essence of my objection  
23 now.

24 MR. NEUMER: I understand your objection,

1 and obviously it's on the record and the  
2 question stands.

3 BY THE WITNESS:

4 A. My response is the allegation is  
5 false.

6 BY MR. NEUMER:

7 Q. Other than your -- you mentioned  
8 several investigative activities that you  
9 engaged in at Area Central, which included an  
10 interview of Officer Van Dyke. That was the  
11 only interview you conducted at Area Central,  
12 the Officer Van Dyke interview; is that correct?

13 A. I believe that's correct, yes.

14 Q. Are there any other significant  
15 investigative activities that you undertook  
16 while you were at Area Central on the  
17 night/morning of October 21st, 2014?

18 A. No, I don't believe -- I don't  
19 believe there are.

20 Q. Do you recall what time you left Area  
21 Central on October 21st, 2014?

22 A. As I said, it was well into the  
23 morning, the following morning. I don't recall  
24 the exact time.

1 Q. Do you recall who was still present  
2 when you left Area Central in terms of folks who  
3 were on the investigative team, officers who  
4 were present at the shooting?

5 A. I don't know for certain, but I would  
6 guess that myself and Sergeant Gallagher were  
7 probably just about the last people to leave the  
8 office.

9 Q. Did you have any substantive  
10 conversations with Sergeant Gallagher while at  
11 Area Central regarding your impressions --  
12 initial impressions based on your preliminary  
13 investigative results?

14 A. If you could be a little more  
15 specific about what you mean by substantive.

16 Q. Sure. Had you discussed your  
17 thoughts or any initial conclusions you had  
18 reached based on the investigative work you had  
19 conducted that night?

20 A. I mean, we communicated to each other  
21 that we both thought the shooting was, you know,  
22 justifiable.

23 Q. Was Deputy Chief McNaughton at Area  
24 Central at any time on the night of the 20th,

1 morning of the 21st?

2 A. Yes, he was.

3 Q. Did you have communications with him  
4 while you were at the scene -- or at Area  
5 Central, rather?

6 A. Yes, not anything I'd call  
7 substantial except for the fact that he thought,  
8 from everything he was aware of, that everything  
9 was fine also with the incident and the  
10 investigation and the use of force.

11 Q. And is it correct you didn't recall  
12 whether you saw Lieutenant Wojcik at Area  
13 Central; is that fair to say?

14 A. I can't say for certain that I saw  
15 him there or know, if he was there, specifically  
16 what time. I really can't say. I don't recall.

17 MR. NEUMER: I think we're nearing the end  
18 of the Area Central section. I'm going to give  
19 my colleague an opportunity to ask some  
20 questions.

21 BY MR. BROWN:

22 Q. Detective March, is there a reason  
23 why times aren't noted on the GPRs, like times  
24 of the interviews?

1           A.     I mean, there's no -- your question  
2     is, is there a reason why there aren't times?  
3     No, there's no reason why there aren't times on  
4     the GPRs, no.

5 Q. Is there any CPD policy governing the  
6 GPRs on how they should be -- what should be  
7 noted on them?

8           A.       No, like I said, GPRs are basically  
9   scratch paper, and you're not required to use  
10  them.  The only requirement is that, if you are  
11  going to take any notes, they're supposed to  
12  be -- they must be on a General Progress Report  
13  that then gets submitted.

14                   There's no -- absolutely no  
15   directive, if you will, on what is supposed to  
16   go on the GPR or what's not supposed to go on  
17   the GPR.  It's whatever you think you need to --  
18   whatever notes you feel you need to take.

19 Q. Okay. Is it your general practice  
20 not to note the times of interviews on GPRs?

21 MR. McKAY: I have to interpose an  
22 objection. Kris, I mean no disrespect, but I've  
23 been a big pain in the ass today because I'm  
24 asking for specificity in your allegations

1 against Dave.

2 Now you're asking Dave about the  
3 absence of times on some these GPRs. If you  
4 think it's necessary for times on his GPRs, then  
5 why don't you think it's necessary that he be  
6 specifically informed who, what, where, when are  
7 things happening regarding witnesses or him and  
8 Van Dyke falsely justifying the shooting? You  
9 see what I'm saying here? I find it ironic.

10 With that said, I have no -- nothing  
11 further to add at this point.

12 BY THE WITNESS:

13 A. Is there a --

14 MR. MCKAY: Could you repeat the question.

15 BY MR. BROWN:

16 Q. Is it your general practice to not  
17 note times on the GPRs?

18 A. I generally do not note times of  
19 specific interviews. I will, over the course of  
20 an investigation keep general -- a general  
21 time, but just in -- you know, like just to kind  
22 of keep an order of when important things happen  
23 to keep them in the proper order, first, second,  
24 third.

1                   The one place where I do get more  
2   specific in terms of times is when we have a  
3   suspect under arrest because there are often  
4   motion hearings in court where the actual time  
5   that actual steps occurred is much more --

|   |    |           |
|---|----|-----------|
| 6 | Q. | Relevant. |
|---|----|-----------|

7           A.     -- relevant and it needs to be  
8     documented.

9 But in terms of witness and victims  
10 and police officers, generally the question  
11 never really comes up, Well, exactly what time  
12 did this interview or that interview occur?

13 Q. All right. Now, your detectives that  
14 were part of your team on the scene as part of  
15 their, I guess, duties to figure out who the  
16 witnesses were to the event, did they have to  
17 speak with the police officers on the scene?

18           A.     Did they have to?

|    |    |        |
|----|----|--------|
| 19 | Q. | Mm-hm. |
|----|----|--------|

|    |    |     |
|----|----|-----|
| 20 | A. | No. |
|----|----|-----|

21 Q. I only ask that because I was just  
22 wondering, had any of the detectives or any of  
23 the police officers told you or your fellow  
24 teammates that they weren't able to, I guess,

1 identify any of the witnesses to the event or  
2 that they shooed away a witness and on second  
3 thought they might have been like, Oh, I should  
4 have got that information from that person, did  
5 you ever hear anything about that or anything  
6 related to that?

7 A. No, I didn't hear anything along  
8 those lines.

9 Q. Do you know if the detectives that  
10 conducted the interviews at the area, do you  
11 know if they completed their GPRs while they  
12 were interviewing the witness?

13 A. I couldn't tell you specifically.

14 Q. The detectives that completed the  
15 witness interviews, if they were to complete  
16 their GPRs until, I don't know, a week later,  
17 would they need to inform you of that?

18 Like if they don't -- sounds like the  
19 GPRs are completed pretty much the day of  
20 whenever the interview happens. If something  
21 outside that norm occurs, do detectives need to  
22 tell you, Hey, I didn't get to do my GPR notes  
23 until two days later, three days later, four  
24 days later?

1           A.       That would be very unusual. What I  
2       would think would be more likely is if a  
3       detective had -- like let's say in this  
4       particular case, a detective conducts an  
5       interview in the office and I'm not back from  
6       the scene yet and then he got sent out on a new  
7       assignment and he forget to leave them with  
8       somebody in the office to turn them over to me  
9       and we got separated, and then the next day or  
10      the day after he looks in his notebook and says,  
11      Oh, I still have the GPRs from the Laquan  
12      McDonald incident, then he would get them to me.  
13      Something like that could happen --

14 Q. But relates --

```
15      A.      -- in general GPRs are pretty much
16 done --
```

17 Q. That day.

18 | A. -- before you go home and turned in.

19 Q. And, as far as you recall, the GPRS  
20 of those witnesses, you saw them that night  
21 while you were at the area?

22           A.     The following morning.

23 Q. The following morning. Okay.

24 A. Sometime -- you know, might have

1 still been dark out, but it was after midnight.

2 Q. Got you.

3 A. I wouldn't have seen those GPRs until  
4 I got back to the office from the scene, and  
5 that was well after midnight. And I don't  
6 remember exactly what time I got handed them and  
7 got to take -- actually got to take a look at  
8 them.

9 Q. That's fair. Did you have a chance  
10 to review the GPRs that the detectives wrote up  
11 related to those witness interviews?

12 A. Yes.

13 Q. Did you have any follow-up questions  
14 for the detectives?

15 A. No.

16 Q. Generally if a witness requests to  
17 review a police video, are the detectives  
18 allowed to show the witnesses those police  
19 videos?

20 A. That's entirely up to the detective.

21 Q. There's no rule preventing them from  
22 doing that?

23 A. There's no department directive  
24 specifying that you must show a witness the

1 video or that you cannot show a witness. If you  
2 think it serves some investigative purpose if  
3 there's a reason -- if you feel it's reasonable,  
4 then you can, but you don't have to show the  
5 video.

6 Q. In your experience, if a witness  
7 requests to see a video and you determine like,  
8 oh, it's not relevant that the witness see the  
9 police video, would you note that on your GPR?

10 A. Just note the fact that they wanted  
11 to see the video?

12 Q. Mm-hm.

13 A. I might but not -- not necessarily --  
14 I wouldn't in every case make sure I make a note  
15 of it.

16 Q. As it relates to when you spoke to  
17 Van Dyke at the area, did you do your GPR while  
18 you were talking to Van Dyke?

19 A. Yes.

20 Q. You made mention that the 21-foot  
21 rule is a well-known part of law enforcement  
22 teaching. I wanted to ask you, is that 21-foot  
23 rule part of CPD's teaching?

24 A. I can't say specifically, but I

1 believe I do recall it coming up during some  
2 training within the Department.

3 Q. Okay.

4 A. I can't tell you at what time or what  
5 specific training class, but --

6 Q. You recall that at some point --

7 A. -- it seemed -- I think I have heard  
8 that, not just outside the police department but  
9 in department training.

10 Q. Do you know if Van Dyke spoke to  
11 anyone between the time of your second on-scene  
12 interview and when you spoke with him at the  
13 Area?

14 A. I don't know for certain, but it's  
15 entirely possible. We're talking about a period  
16 of hours.

17 Q. Hours, right. Did you ask him who he  
18 spoke with in that period of hours?

19 A. No.

20 Q. Do you have any idea if he spoke with  
21 the FOP during that period of hours?

22 A. Again, I know specifically -- I don't  
23 know specifically, but I do know that they  
24 responded, they were at the Area and he, as I

1 said, was the principal member involved, so it  
2 would seem likely, but I don't have personal  
3 knowledge of that.

4 MR. BROWN: That's all my questions. I'll  
5 toss this back to Peter.

6 THE WITNESS: Would this be a good time for  
7 a break?

8 MR. NEUMER: Sure. The time is 3:08 p.m.  
9 we'll go off the record.

10 (WHEREUPON, a recess was had.)

11 MR. NEUMER: The time is 3:20. We'll go  
12 back on the record.

13 BY MR. NEUMER:

14 Q. For this next group of questions, you  
15 may want to refer to the Exhibit 5 CSR.

16 So following -- actually, I did mean  
17 to ask you, where did you go after you left Area  
18 Central on the morning of October 21st, 2014?

19 MR. MCKAY: How is that relevant?

20 BY MR. NEUMER:

21 Q. If you recall.

22 MR. MCKAY: Well, how is it relevant?

23 MR. NEUMER: I don't know, maybe he goes  
24 out to dinner with detectives and they talk

1 about the case. Come on, man.

2 MR. MCKAY: Then ask him.

3 MR. NEUMER: I'm saying where did he go --

4 MR. MCKAY: Well, my point is --

5 MR. NEUMER: I'm not trying --

6 MR. MCKAY: -- it sounds like it's a --

7 MR. NEUMER: -- through --

8 MR. MCKAY: -- fishing expedition.

9 MR. NEUMER: It's a reasonable question.

10 MR. MCKAY: I disagree.

11 BY MR. NEUMER:

12 Q. If you recall.

13 A. I believe I went home.

14 Q. Was anyone with you on your car ride  
15 home?

16 A. No.

17 Q. After the night of October 20th,  
18 2014, we've walked through the investigative  
19 steps you took at the scene. We've walked  
20 through the investigative steps you took at Area  
21 Central. Walk us through the investigative  
22 steps you took after Area Central.

23 A. Again, not in any particular  
24 chronological order, but from what I can

1 remember off the top of my head, we had  
2 attempted that night to locate the original 911  
3 caller. We were unsuccessful in that endeavor.

4 The following day, the afternoon or  
5 the evening of the 21st, some detectives from my  
6 office were able to locate the wife of the  
7 caller and she was interviewed.

8 Subsequently the following day the --  
9 her husband, at the request of those detectives,  
10 they left information and he called me the  
11 following afternoon or evening on the 22nd -- I  
12 believe it was the 22nd, and I interviewed him.

13 Sometime after this incident a major  
14 case review was conducted at the Illinois State  
15 Police Crime Lab regarding the processing of  
16 evidence in this case. And based on that  
17 meeting, I prepared an Evidence Submission  
18 Report requesting that the evidence be analyzed  
19 by the State Police Crime Lab.

20 Other than that, basic, if you will,  
21 housekeeping tasks, making sure I was collecting  
22 all the documentation, the reports, like that so  
23 that I would have everything that I needed for  
24 the file.

1 Q. Okay.

2 A. Oh, and the following day I know some  
3 additional video was recovered.

4 Q. I'm going to direct you to Page 22 of  
5 the Exhibit 5 CSR, the third paragraph starting,  
6 "The assigned personnel."

7 It says, "The assigned personnel also  
8 became aware an around article written by Craig  
9 Futterman citing the existence of an unknown  
10 witness to this incident."

11 It says, "Futterman was contacted on  
12 Thursday, March 12, 2015, in an attempt to  
13 interview this witness."

14 Did you contact -- was that you who  
15 attempted -- or who contacted Futterman on  
16 March 12, 2015?

17 A. Sergeant Gallagher made the call,  
18 left a message, and Futterman called him back  
19 later that day, and Gallagher talked with  
20 Futterman.

21 Q. Okay. It says, "Futterman said he  
22 would contact the witness and provide contact  
23 information for the assigned personnel."

24 Did you or anyone else at CPD ever

1 have contact with the witness identified by  
2 Futterman?

3 A. No.

4 Q. Did you follow up with Professor  
5 Futterman at any time after Sergeant Gallagher's  
6 initial call?

7 A. No, he made it quite clear to  
8 Sergeant Gallagher that the witness -- that he  
9 was not going to cooperate with putting us in  
10 touch with this victim -- or with this witness  
11 and that he was -- he firmly believed that the  
12 witness was not going to talk to us.

13 Q. Okay.

14 A. We were also aware of an internet  
15 article on, I believe, the website is called  
16 "The Slate," which referenced Craig Futterman,  
17 and I believe it's the same witness.

18 And in that article when the author  
19 is speaking about this alleged witness, he says  
20 he -- he declines to identify the witness in his  
21 article because his article said something to  
22 the effect of the witness didn't want him using  
23 his name because he feared reprisals from the  
24 police.

1 Q. So --

2 A. And both Futterman and the author of  
3 the article indicated that this witness -- this  
4 alleged witness had spoken with IPRA.

5 Q. Did you note that in a -- was that  
6 noted in a -- did Sergeant Gallagher, would he  
7 do a GPR for a conversation with Professor  
8 Futterman?

9 A. Yes, he did a GPR, and that's where  
10 the reference in the report comes from, from  
11 Sergeant Gallagher's GPR.

12 Q. And the article -- when it says the  
13 assigned personnel became aware of an article,  
14 is that the article that was on "The Slate" that  
15 you were referencing?

16 A. I believe so. And I didn't -- I  
17 don't know how to characterize this. I didn't  
18 have the article in front of me. I saw the  
19 article on the internet, and I remember that  
20 Craig Futterman was mentioned.

21 And in the report it says the article  
22 was written by Craig Futterman, but obviously  
23 the article -- now I have seen the article again  
24 and I know that it's -- the author is named

1 Jamie Kalven, who works with Futterman, and he  
2 mentions Futterman and this witness.

3 Q. So, again, it was that article that  
4 prompted Sergeant Gallagher to reach out to  
5 Craig Futterman?

6 A. I know we -- I know I was aware of  
7 that article. I'm not sure if specifically  
8 Gallagher was aware of that article or if there  
9 were any other articles.

10 Q. You submitted your -- the Exhibit 5  
11 CSR three days after Sergeant Gallagher  
12 contacted Professor Futterman; is that correct?

13 A. It appears that way from the times on  
14 the computer-generated report. I don't  
15 specifically remember, but looking at the  
16 report, it appears that way.

17 Q. Did you have any concerns that  
18 Futterman's witness would contradict the account  
19 that you had presented in the Exhibit 5 CSR?

20 MR. MCKAY: Well, I have to object that  
21 that assumes facts not in evidence that this  
22 witness who was never talked to by the police  
23 would provide an account that would contradict  
24 what was already known during Detective March's

1 investigation.

2 And at this time I have to inject  
3 another standing objection and also a question  
4 to you, Peter, and that is this: Part of the  
5 Police Accountability Task Force includes Craig  
6 Futterman who is listed on their website as a  
7 working group member. And in addition to  
8 Mr. Futterman, Mr. Futterman and Jamie Kalven  
9 K-a-l-v-e-n, are listed on the Police  
10 Accountability Task Force are people that are  
11 interviewed.

12 So I object to this office and  
13 Inspector General Joseph Ferguson conducting  
14 this investigation with those two men a part of  
15 this task force and interviewed by this task  
16 force coming up with these findings that were  
17 made long before Detective March came into this  
18 room this morning.

19 And I ask you, Mr. Neumer, is Craig  
20 Futterman and/or Jamie Kalven the source or  
21 source of the allegations you made against  
22 Detective March today?

23 MR. NEUMER: You know, we've been over this  
24 five or ten times --

1 MR. McKAY: Not specifically regarding  
2 Mr. Futterman and Mr. Kalven --

3 MR. NEUMER: And nor are we going to give  
4 any -- we have a duty of confidentiality and we  
5 can't give out details of our investigation so  
6 whether we -- we can speculate --

7 MR. McKAY: I have to object. Peter, you  
8 believe you have a duty of confidentiality and I  
9 respect that; however, under the Collective  
10 Bargaining Agreement that the City of Chicago  
11 reached with the Chicago Police Department  
12 through FOP, this man and any accused has a  
13 right to know who his complainants are.

14 And if the complainant is a non-sworn  
15 officer -- for example, like Craig Futterman or  
16 Jamie Kalven -- they must submit affidavits to  
17 support any allegations they make against any  
18 accused, and you, sir, as the investigative  
19 agency must provide those affidavits to the  
20 accused.

21 I ask you again, is Mr. Futterman and  
22 Mr. Kalven the source or sources of your  
23 allegation against Detective March? And, if so,  
24 please provide us with their affidavits now.

1 MR. NEUMER: Our Notification of  
2 Allegations speaks for itself.

3 I'll ask the court reporter to read  
4 back the question, the last question I posed.

5 (WHEREUPON, the record was  
6 read by the reporter.)

7 BY THE WITNESS:

8 A. I didn't know what kind of concerns  
9 to have regarding this alleged witness because I  
10 had no idea what he was saying.

11 I made every attempt -- I made every  
12 effort I could think of to try to identify and  
13 locate and interview this person so that I would  
14 know firsthand what his statement would be, what  
15 he saw, what he heard, what he witnessed.

16 As I said before, Futterman and  
17 Kalven both made it abundantly clear that they  
18 were not going to provide the identity of this  
19 witness, and both of them stated they -- that he  
20 did not want to be involved with the police, and  
21 both stated that he had already spoken with  
22 IPRA.

23 Therefore, for two reasons, number  
24 one -- that was the end of my efforts for two

1 reasons: Number one, by the time this all came  
2 to light, I was already personally being accused  
3 of wrongdoing in this investigation, and I  
4 didn't want to compound the allegations against  
5 me by being accused of harassing a potential  
6 witness who had already spoken to IPRA.

7 And, number two, I figured if both of  
8 these people are saying that he spoke to IPRA,  
9 then there should be an official record of what  
10 this witness is alleging to have witnessed.

11 BY MR. NEUMER:

12 Q. What were the allegations of  
13 wrongdoing you mentioned?

14 A. Well, first of all, there was an  
15 attorney Jeffrey Neslund who was -- who  
16 contacted the City threatening a lawsuit, and  
17 during his communications with the City, he made  
18 allegations about the incident and the follow-up  
19 investigation.

20 Most specifically there was some very  
21 wild and unsubstantiated allegations which got a  
22 wide range of play in the news media regarding  
23 missing video from the Burger King restaurant  
24 video system, which the police were specifically

1 accused of deleting. Which, subsequently, to my  
2 knowledge, the FBI did a forensic analysis of  
3 the hard drive of that video system and  
4 determined -- or at least could not find any  
5 evidence of any deleting or tampering with the  
6 video files.

7 So these are the kinds of allegations  
8 I'm talking about.

9 Q. And what steps --

10 A. At the time that I became aware of  
11 the alleged witness that Futterman knew, these  
12 allegations were already being made.

13 Q. And what steps did you take to track  
14 down the Futterman witness?

15 A. We contacted -- Sergeant Gallagher  
16 contacted Futterman who did not provide the  
17 information and said the witness would probably  
18 not cooperate.

19 I re-examined the Jamie Kalven  
20 article and saw that he said that he was not  
21 using the witness's -- the alleged witness's  
22 name because the witness feared reprisals from  
23 the police, which was a clear indication that he  
24 was not going to cooperate with the police.

1 And, as I said, both Kalven and Futterman  
2 indicated that this alleged witness had already  
3 spoken to IPRA.

4 Q. So I'm going to direct you to Page 3  
5 of the Notification of Allegations,  
6 Subsection B, Roman numeral I(1).

7 It is alleged you failed to pursue  
8 relevant material and reasonable investigative  
9 leads including but not limited to failing to  
10 take reasonable steps to identify and interview  
11 material witnesses including but not limited to  
12 the witness to the McDonald shooting identified  
13 by law professor Craig Futterman.

14 What is your response to that  
15 allegation?

16 A. That allegation is false for the  
17 reasons I just stated. I told you I did take  
18 every reasonable step that I thought prudent at  
19 that particular point in time.

20 Q. Okay. Directing your attention to --

21 MR. MCKAY: For the record, I'm going to  
22 have to object to the allegation containing the  
23 description of the witnesses as material.  
24 There's no evidence to support that any

1 witnesses talked about by Professor Futterman  
2 were material.

3 Thank you.

4 BY THE WITNESS:

5 A. I would also like to add one other  
6 point. Having become aware of the existence of  
7 this alleged witness, I went back personally and  
8 re-examined all of the video evidence in this  
9 case, the two -- the video from the two squad  
10 cars and the Dunkin' Donuts video.

11 And if one looks at the video of all  
12 three sources, it covers a wide range of area  
13 surrounding the scene, the location where the  
14 encounter between Laquan McDonald and Jason  
15 Van Dyke occurred. And it is clear in the video  
16 there were no pedestrians anywhere near to have  
17 a credible view of what occurred, and there was  
18 no vehicular traffic that drove by as this  
19 encounter occurred.

20 So it seemed very unlikely from the  
21 video evidence that there would be any other  
22 credible witness to this incident that could be  
23 called material.

24

1 BY MR. NEUMER:

2 Q. When did you conduct that review of  
3 the video?

4 A. Shortly after -- you know, around the  
5 same time that we were trying to identify this  
6 witness.

7 Q. Oh, so around March 12, 2015?

8 A. Correct.

9 Q. Okay.

10 A. I specifically went back and looked  
11 at the video for that one reason, to try and see  
12 if there was any possibility that there was a  
13 witness that could have seen anything anywhere  
14 near where the incident occurred.

15 In my opinion, the video shows very  
16 clearly there is no one anywhere near -- no one  
17 walking by or driving by close enough to see  
18 what occurred between Jason Van Dyke and Laquan  
19 McDonald.

20 Q. Directing your attention to Page 3 of  
21 the Notification of Allegations, Section B,  
22 Roman numeral I(2).

23 It is alleged that you failed to  
24 pursue relevant material and reasonable

1 investigative leads including but not limited to  
2 failing to take reasonable steps to identify and  
3 interview material witnesses including but not  
4 limited to the employees of the Dunkin' Donuts  
5 store that was located in proximity to the  
6 McDonald shooting.

7 What is your response to that  
8 allegation?

9 A. That allegation is false. We  
10 obviously had detective personnel go to the  
11 Dunkin' Donuts to canvass for witnesses and  
12 video. That is how we, in fact, did recover the  
13 Dunkin' Donuts video.

14 Detective Rich Hagen, I know for  
15 certain -- there may be other detectives that  
16 went there also, but I know for certain that  
17 Detective Hagen went to the Dunkin' Donuts. He  
18 did a GPR documenting the fact that he went to  
19 the Dunkin' Donuts and recovered the video.

20 And he specifically told me that  
21 night that the people in the Dunkin' Donuts  
22 didn't know what happened at all until he walked  
23 in the door and told them there was an incident  
24 outside and he was following up on it.

1 Q. So he reported to you that the  
2 Dunkin' Donuts employees hadn't witnessed the  
3 shooting?

4 A. Correct. And this is corroborated by  
5 the Dunkin' Donuts video itself, which, if you  
6 look at it, the point of -- perspective of the  
7 video is the camera is mounted on the outside of  
8 the restaurant building looking westbound  
9 towards Pulaski Road.

10 And you do see the final encounter --  
11 well, as good as you can see on this video the  
12 final encounter between Jason Van Dyke and  
13 Laquan McDonald, but the video is at a distance.  
14 The police officer's vehicle, the individual  
15 people, Officers Walsh, Van Dyke and Laquan  
16 McDonald are very small, basically stick figures  
17 on the video.

18 And anyone who was inside the  
19 restaurant, whether it be an employee or a  
20 potential customer were even further away, and  
21 their view would have been obstructed by the  
22 walls and whatever else of the business itself.  
23 So that lent credibility to the fact that there  
24 was no one in the Dunkin' Donuts -- you know,

1 when Hagen told me they said they didn't know  
2 what occurred out there, that seemed reasonable  
3 to me.

4 Q. With respect to Detective Hagen's  
5 conversations with the Dunkin' Donuts employees,  
6 did he do -- or create GPRs with respect to  
7 those conversations?

8 A. He did one GPR about his activities  
9 in the Dunkin' Donuts. I believe it  
10 concentrates on his recovery of the video. I  
11 believe he does identify the manager, I believe  
12 it is, of the establishment, and then he focused  
13 his efforts on the recovery of the video.

14 Q. Do you have any idea how many  
15 employees Detective Hagen talked to the at  
16 Dunkin' Donuts?

17 A. We're all kind of familiar with  
18 Dunkin' Donuts. I believe he said there were  
19 two people in there at the time, so I'm assuming  
20 that manager and one other employee.

21 Q. Okay.

22 A. Again, I believe that's what he told  
23 me.

24 Q. And that was at the scene of the

1 shooting?

2 A. Right.

3 Q. I'm going to have to -- for the sake  
4 of thoroughness, I have to backtrack a little  
5 bit and direct your attention to Page 3 of the  
6 Notification of Allegations, section B, Roman  
7 numeral II.

8 And it is alleged you failed to  
9 pursue relevant, material, and reasonable  
10 investigative leads including but not limited to  
11 failing to properly and thoroughly document the  
12 statement Officer Van Dyke made to you  
13 October 21st, 2014, at Area Central in the  
14 General Progress Report you completed regarding  
15 that interview.

16 What is your response to that  
17 allegation?

18 MR. McKAY: Are you referring to a specific  
19 exhibit that you have marked --

20 MR. NEUMER: Yes, Exhibit 10, Page 4.

21 MR. McKAY: Thank you.

22 BY THE WITNESS:

23 A. My response to this allegation is it  
24 is completely and thoroughly false. And as I

1 noted in our previous discussion on General  
2 Progress Reports or GPRs, there is no improper  
3 way to document whatever you put on a GPR. It  
4 is strictly scratch paper for whatever notes you  
5 deem necessary.

6 The allegation says I failed to  
7 properly and thoroughly document the statement  
8 of Officer Van Dyke. There is no way to  
9 properly and thoroughly fill out a GPR. It's  
10 whatever notes the detective deems necessary.

11 MR. NEUMER: Regarding this line of  
12 questioning, Kris, do you have any follow-up or  
13 cleanup questions?

14 MR. BROWN: I do.

15 BY MR. BROWN:

16 Q. In regards to IPRA, did you reach out  
17 to anyone at IPRA related to the witness you  
18 were speaking about?

19 A. As I've said before, I've been doing  
20 this for a while. I've been a detective for  
21 25 years, and I've been involved in police  
22 officer-involved shooting investigations.

23 The relationship between IPRA and the  
24 police department is a one-way street. We are

1 expected to provide them with everything we  
2 learn, and they provide us with nothing.

3 In this particular investigation, I  
4 know for a fact that within the first couple of  
5 weeks of the investigation, Sergeant Gallagher  
6 contacted Scott Ando, the head of IPRA, making  
7 inquiries regarding other issues on this  
8 investigation. And Scott Ando would provide  
9 Sergeant Gallagher with no information. So I  
10 saw no reason at all to contact IPRA again.

11 Q. Do you know if Sergeant Gallagher  
12 reached out to Ando regarding witnesses?

13 A. I don't know specifically -- I know  
14 he spoke -- I know they spoke about video, but I  
15 don't know if they spoke about any other  
16 possible -- potential witnesses.

17 I don't know any other issue -- I  
18 know specifically they talked about video, but I  
19 don't know if they talked -- what other issues  
20 they may have talked about.

21 Q. Were you in on that phone call with  
22 Ando --

23 A. No, Sergeant Gallagher informed me of  
24 it after the fact.

1 Q. Did he memorialize that phone call in  
2 any way?

3 A. There was nothing to memorialize. He  
4 made an inquiry, got no response and...

5 Q. I mean, did he say like Ando didn't  
6 respond to the question or did Ando just say,  
7 I'm not going to give you anything?

8 A. I don't know what Ando's exact words  
9 were, but it was basically to the effect that he  
10 wasn't going to provide us with any information.

11 Q. Have you personally made requests  
12 from IPRA in the past for other cases where  
13 they've denied you, I guess, information?

14 A. I don't recall specifics.

15 Q. Have you ever sent an official  
16 document request on CPD letterhead to IPRA  
17 requesting information that could be helpful to  
18 your investigations?

19 A. I don't recall.

20 Q. So if you needed information that  
21 IPRA might have had, what would be the best  
22 vehicle you would use to try to get that  
23 information?

24 A. I don't know that that's possible.

1 Q. Is that because of the relationship  
2 you mentioned between IPRA and CPD?

3 A. Exactly.

4 Q. Because of that sour relationship,  
5 was there any thought to send an official  
6 request to IPRA so as to cover, you know, your  
7 interests so that you'd have their denial to --

8 MR. MCKAY: Object to the form of the  
9 question. You mentioned sour relationship.  
10 That's your take, Mr. Brown.

11 MR. BROWN: I'm sorry. I probably  
12 misrepresented what Mr. March said.

13 BY MR. BROWN:

14 Q. I know you told me something about  
15 the relationship between IPRA is like a one-way  
16 street or something to that effect. It's not  
17 the best, I guess; is that fair to say?

18 A. Information flows one way. We are  
19 expected to provide them with everything. If we  
20 withhold anything, then we're considered  
21 obstructing their investigation and, yet, they  
22 provide us with nothing.

23 Q. So they make requests of you helpful  
24 to their investigations?

1 A. Absolutely.

2 Q. And when they do that, do they send  
3 you document requests, or do they make phone  
4 calls?

5 A. Could be either.

6 Q. And you make an official response?

7 A. If it's a question I can answer over  
8 the phone, I answer it over the phone.

9 MR. MCKAY: Mr. Brown, can I ask you  
10 something: Can you provide us now statements  
11 you have in your possession from Mr. Futterman,  
12 Mr. Kalven, or IPRA and the taking of any  
13 statements by IPRA of any witnesses in this  
14 case, or is this a one-way street, too?

15 MR. NEUMER: We've provided all materials  
16 as required under the CBA.

17 MR. MCKAY: Thank you, Mr. Neumer. But,  
18 again, with respect to both you gentlemen, I  
19 find it ironic that Mr. Brown is asking this  
20 detective whether he did certain steps with  
21 regard to IPRA and whether or not they  
22 interviewed anybody and shared any information  
23 with the Chicago Police Department in this case  
24 when, for the entirety of this statement, we are

1 asking you gentlemen if you could share with us  
2 any statements or any information you may have  
3 in your possession that we suspect, if it  
4 exists, is supporting these allegations that we  
5 are trying to defend against today.

6 Okay. Please continue.

7 BY MR. BROWN:

8 Q. I'm just trying to get further  
9 information on IPRA's, I guess, possible  
10 reluctance to give you information that could be  
11 helpful for your investigation.

12 We don't have to recount it, but it  
13 sounds like Sergeant Gallagher didn't  
14 memorialize whatever the conversation was  
15 between him and Scott Ando?

16 A. No, I don't believe he did.

17 Q. Do you know if Sergeant Gallagher at  
18 least learned the identity of the witness in the  
19 conversation with Scott Ando?

20 A. The conversation that I'm aware of  
21 that he had with Ando happened within a couple  
22 weeks of the incident. I know they spoke about  
23 video. I don't know what, if anything else,  
24 they spoke about.

1 Q. Okay.

2 A. And when we found out about this  
3 witness at that point in time for those two  
4 reasons I cited, my previous experience and also  
5 the previous experience with IPRA in this  
6 particular investigation, I didn't see any  
7 point.

8 Q. Had the relationship with IPRA been  
9 better, would you have liked to have gotten  
10 information about that statement, like maybe a  
11 written copy of it?

12 A. Absolutely.

13 Q. Okay.

14 A. But just like you're telling us  
15 today, they will cite a privacy concern and not  
16 provide it to us. We're expected to conduct a  
17 thorough investigation and professional  
18 investigation, yet, we are handcuffed because  
19 other agencies use this wall of -- what was the  
20 word?

21 MR. MCKAY: Confidentiality.

22 BY THE WITNESS:

23 A. Confidentiality as a reason to not  
24 provide us with information.

1 BY MR. BROWN:

2 Q. And as it relates to Futterman, you  
3 mentioned that you had the impression that the  
4 witness probably wouldn't want to speak to CPD  
5 anyway even if you knew who the witness was?

6 A. Both Futterman and Kalven both made  
7 that clear.

8 Q. When a detective deals with that type  
9 of scenario, do you have any tools that you can  
10 use to try to make a witness speak to you?

11 A. In my experience, I have never  
12 seen -- I've seen many different strategies  
13 employed, and I've never seen -- the ultimate  
14 outcome is that I've never seen the police  
15 department able to compel a witness that was  
16 reluctant to be a witness and participate in the  
17 investigative process to be a witness.

18 We have to depend on people's sense  
19 of right and wrong and good citizenship to,  
20 quote/unquote, do the right thing. If they see  
21 something, they should say something and  
22 cooperate with the police. Unfortunately for  
23 us, there's no way to compel that cooperation.

24 Q. Lastly, you mentioned, after

1 Gallagher spoke with Futterman, you reviewed the  
2 video to see if there was any possible  
3 eyewitnesses that maybe that might have been  
4 missed; is that accurate?

5 A. I knew what the result of this  
6 inquiry would be, but because these statements  
7 were being made by these people, I went back and  
8 checked again. And, as I told you, there's  
9 nothing in the video that indicates there is any  
10 potential witness anywhere near this incident.

11 Q. Could you have considered any witness  
12 that might have been on Pulaski Road that --

13 A. I looked at vehicular traffic. Once  
14 the police vehicles started to converge, traffic  
15 northbound and southbound all kind of like  
16 stopped and stayed where they were.

17 There was no -- there were no cars --  
18 the police -- Laquan McDonald was in the  
19 southbound lanes, and the police basically had  
20 the southbound lanes blocked. So southbound  
21 traffic was at a standstill from almost a block  
22 behind us -- the incident.

23 And in the dash cam video, you can  
24 see the traffic that already passed and

1 continued on southbound, and at the time of the  
2 shooting, the closest car is almost a block  
3 away.

4 Q. And that kind of gets to my question  
5 that --

6 A. And from the Dunkin' Donuts video  
7 looking across Pulaski, you see there's no  
8 traffic going across, either pedestrian or  
9 vehicular.

10 Q. I would agree with you on the Dunkin'  
11 Donuts video. My question is more so about the  
12 video that shows maybe the vehicle that's a  
13 block away, is there a chance that that vehicle  
14 might have seen the incident?

15 A. Again, in looking at that video, at  
16 the time the shots are fired, that vehicle is  
17 almost a full city block away from.

18 From the squad car cam, if you look  
19 at it closely, you can see the brake lights on  
20 that vehicle, looks like it's a car -- not an  
21 SUV or truck or van, it looks like it's a car,  
22 some kind of automobile, it's driving  
23 southbound. It's in the right-hand lane or curb  
24 lane, and you can see -- the driver has not

1 stopped and he's pumping the brakes. You see  
2 the brakes go on and off, and you can see the  
3 car continue to move.

4 So maybe this person has seen the  
5 blue lights and he's looking in his rear-view  
6 mirror. Maybe he's looking out the driver's  
7 door window. We can't tell in the video. But  
8 he's continuing to drive southbound, and, as I  
9 said, if you look at the video closely, he is  
10 almost a full block away at the time the shots  
11 are fired, which does not make it likely that he  
12 could see anything. He certainly didn't hear  
13 anything that transpired.

14 MR. BROWN: That's all my questions.

15 BY MR. NEUMER:

16 Q. Directing your attention to Exhibit 5

17 CSR --

18 A. And to take it one step further, if  
19 it was possible to identify and talk to that  
20 person, yes, I would love to talk to that  
21 person, but we didn't have the license plate off  
22 the car, Kalven and Futterman weren't  
23 identifying him, so I didn't see any other  
24 reasonable effort I could make to try to

1 identify this person and try to talk to them.

2 Q. Exhibit 5 CSR, I want you to walk us  
3 through your process for drafting this document.  
4 When did you first start drafting it?

5 A. The incident happened near the end of  
6 October. Unfortunately due to the workload at  
7 the Chicago Police Department, I don't get to  
8 conduct an investigation and then take myself  
9 out of the lineup, if you will, and just spend  
10 as much time as I need to to complete my  
11 reports. The very next day I could get sent out  
12 on a brand new investigation, so something's got  
13 to give.

14 When a new incident occurs, when an  
15 arrest is made and they need detectives to  
16 handle the follow-up, the sergeant has to send  
17 someone. He can't say, I don't have anybody to  
18 send out there because everyone has paperwork to  
19 do. So the paperwork is the thing that has to  
20 get sacrificed.

21 So during the next couple months,  
22 November, December, whenever I have time. This  
23 is a major case. They don't get much bigger in  
24 terms of priority. I worked on it as much as I

1 could.

2 In January we became aware of the  
3 fact that police officers involved in this  
4 incident were being subpoenaed to the courthouse  
5 at 26th and California and they were being  
6 interviewed, by my understanding, by the Cook  
7 County State's Attorney's office and the Federal  
8 Bureau of Investigation.

9 My supervisor, Lieutenant Wojcik,  
10 when he became aware of this, he started to ask  
11 questions, Well, if there's additional  
12 investigation being done, since we're charged  
13 with this investigation, shouldn't we be part of  
14 that?

15 And he asked questions up the chain  
16 of command about this, other involvement and  
17 what to do, and, to my knowledge, he never got a  
18 response from the chain of command, and so  
19 Wojcik told me to hold off on doing anything  
20 until we get some answers to what he was trying  
21 to find out.

22 Subsequent to that, there was the  
23 negotiations, if you will, regarding the  
24 settlement with McDonald's family, and then all

1 of the sudden in March we were ordered to get  
2 the reports done right away.

3 Q. Who ordered you in March to get the  
4 reports done right away?

5 A. Commander Eugene Roy at Area Central  
6 Command, our commander.

7 Q. How did he communicate that message?

8 A. He told Wojcik, and Wojcik told me.

9 Q. And was that -- do you know if his  
10 directive to finish off the reports was prompted  
11 by the civil lawsuit settlement?

12 A. I believe it was. I don't know for  
13 certain. I wasn't privy at that level of, you  
14 know, communication, but it seemed apparent.

15 Q. And so Wojcik had told you hold off  
16 on drafting or investigating entirely while this  
17 grand jury --

18 A. Right because --

19 Q. -- or subpoenas was --

20 A. Because, again, you had different  
21 entities conducting different investigations,  
22 and at that point we hadn't been told, "You're  
23 no longer investigating this incident," so we  
24 still had a responsibility to investigate.

1                   And be -- and Lieutenant Wojcik felt  
2   that meant being involved if there's continuing  
3   investigation, if there's new information coming  
4   to light, new witnesses, then we should be a  
5   part of that; and we weren't.

6 And, again, he went -- made a request  
7 up the chain of command to find out and get some  
8 direction here, and it never came until March  
9 when the settlement issue was at hand and we  
10 were ordered to get the reports in then all of  
11 the sudden.

12 Q. How long was the investigation on  
13 hold pending Wojcik's inquiry?

14           A.     It was the beginning of January until  
15     the beginning of March so maybe two months.

16 Q. And that was, again, the subpoenas  
17 going out to the police officers over at 26th  
18 and Cal?

19           A.       Again, I wasn't party to any of that.  
20       My understanding is that subpoenas went out to  
21       the police officers involved, and I believe  
22       that's the nine non-shooting officers, not  
23       Van Dyke but the nine others.

24 And, again, I don't know

1 specifically, I can't swear to anything, but my  
2 understanding is the nine witness officers, if  
3 you will, were issued grand jury -- Cook County  
4 grand jury subpoenas to go to 26th Street.

5 To my knowledge, none of them  
6 testified before the grand jury, but they were  
7 interviewed, as I said, by personnel from the  
8 State's Attorney's Office and the FBI.

9 Q. And where were you getting this  
10 information regarding the subpoenas, the  
11 interviews, all this?

12 A. I don't recall, you know, just --

13 Q. Was it Lieutenant Wojcik?

14 A. I mean, he was aware of it, too, yes,  
15 I mean, obviously because he -- I don't know  
16 where it first came from. I mean, Wojcik,  
17 Gallagher, and I all became aware of it. I  
18 don't know where we first heard it.

19 Q. And it was Wojcik's call to say,  
20 "Detective March, hold off for now"?

21 A. Right, he said -- he says, You know  
22 what, hold off until we get some direction from  
23 upstairs. Because we didn't want to interfere  
24 with another investigation. And, yet, if we're

1 still charged with this investigation why aren't  
2 we part of what's going on. So we didn't know  
3 what to do.

4 Q. So then in March of 2015, Roy gives  
5 the directive, Let's wrap up this report?

6 A. Yes.

7 Q. And at that point you finished off  
8 the report?

9 A. Correct.

10 Q. Who else played a role in drafting  
11 the report?

12 A. Myself, Sergeant Gallagher, and  
13 Lieutenant Wojcik. They were my immediate  
14 supervisors.

15 Q. And what was Sergeant Gallagher's  
16 role in drafting the report?

17 A. I basically created the original  
18 draft, if you will, and then Gallagher reviewed  
19 it and Wojcik reviewed it, and we made some  
20 revisions and edits to the report.

21 Q. Is it fair to say that the bulk of  
22 the report was drafted by you?

23 A. Yes, but not -- there are actually,  
24 you know -- and I couldn't -- I can't cite

1 specifics, but there are specific parts that  
2 were not typed by me, but the bulk of the report  
3 was drafted by me.

4 Q. While this investigation was going  
5 on, were you giving folks briefings about where  
6 we're at?

7 A. While what was going on?

8 Q. While the investigation of the  
9 shooting was going on. So we're talking between  
10 October and March. Were you giving briefings to  
11 superiors as to where the investigation was  
12 going?

13 A. Not me personally, no.

14 Q. Do you ever have any meetings with  
15 Superintendent McCarthy regarding this  
16 investigation?

17 A. No.

18 Q. Did you ever have any phone calls or  
19 communications with him regarding this  
20 investigation?

21 A. No.

22 Q. How about Eugene Roy; did you have  
23 any direct communications with Eugene Roy while  
24 this investigation was ongoing about the status

1 of it?

2 A. Yes.

3 Q. Okay. Did you have frequent  
4 conversations with Eugene Roy?

5 A. I don't know if I would use the word  
6 "frequent." There were multiple face-to-face  
7 conversations that I had with him. I  
8 couldn't -- I don't know exactly how many.

9 Q. And what kind of information were you  
10 providing him during those conversations?

11 A. Most of the time it was him coming to  
12 me because maybe he had been asked a question  
13 from higher up the chain of command or an issue  
14 came to the Department so they were trying to  
15 get more background information.

16 So he would come to me with maybe a  
17 specific question about something, and then we  
18 would talk at length about the other aspects of  
19 the investigation.

20 Q. Sure. So certainly you're having  
21 conversations with Wojcik about the  
22 investigation as it continues, correct?

23 A. Sure.

24 Q. And certainly you're having

1 conversations with Sergeant Gallagher about the  
2 investigation as it continues, correct?

3 A. Yes.

4 Q. And you're having some conversations  
5 with Eugene Roy regarding the investigation as  
6 it continues, correct?

7 A. Correct. And also Lieutenant Valdez,  
8 who was the -- he was the other violent crimes  
9 lieutenant in the unit.

10 Q. What was his role in the  
11 investigation?

12 A. We have two violent crimes  
13 lieutenants, one is days, one is third watch,  
14 and they both kind of like -- instead of one  
15 person doing the job, they have two people doing  
16 the job. You know, I assume in the management  
17 model it's to make sure there's somebody there  
18 more often than if there's just one person  
19 there.

20 Q. Okay.

21 A. So they both have like an equal  
22 level, if you will, in the chain of command.

23 Q. I got you. I want to show you two  
24 e-mails.

1 MR. NEUMER: We'll mark these as Exhibit 14  
2 and Exhibit 15.

3 (WHEREUPON, certain documents were marked  
4 OIG Exhibit No. 14 and No. 15 for  
5 identification, as of 04/26/2016.)

6 MR. NEUMER: So Exhibit 14 is a March 13th  
7 e-mail from Lieutenant Wojcik to  
8 Detective March, subject is Arrest Info. And  
9 then it contains an attachment, a Word doc which  
10 contains a paragraph regarding arrests and  
11 certain arrest incidents pertaining to Laquan  
12 McDonald.

13 The Exhibit 15 e-mail is sent from  
14 Lieutenant Wojcik to Detective March. Subject  
15 is Conclusion, and it has an attachment, a word  
16 doc entitled conclusion.doc which contains two  
17 paragraphs concerning the McDonald findings --  
18 or the findings of the McDonald investigation.  
19 BY MR. NEUMER:

20 Q. So as you look through those, I want  
21 to start with Exhibit 15, the e-mail with the  
22 subject Conclusion with the attachment  
23 conclusion.doc.

24 Is this language that Lieutenant

1 Wojcik drafted and sent to you?

2 A. I'm still reading.

3 Q. Sorry. You tell me when you're...

4 A. Okay.

5 Q. Okay. So this language that

6 Lieutenant Wojcik drafted and then sent to you?

7 A. Yes.

8 Q. And do you have any recollection as  
9 to the background regarding this e-mail? Did  
10 you send him a draft previously?

11 A. No, this is when we were ordered to  
12 get the reports in quickly, both Gallagher and  
13 Wojcik and I worked together, you know, to --  
14 rather than dumping it all on one guy, the three  
15 of us worked together.

16 So Wojcik said I'll do an analysis of  
17 his arrest record, so that's what the one e-mail  
18 is. And then Wojcik drafted a suggestion, if  
19 you will, for the conclusions for the  
20 investigation.

21 Q. Did you, Lieutenant Wojcik, and  
22 Sergeant Gallagher have any in-person meetings  
23 regarding --

24 A. Oh, yes.

1 Q. Regarding the findings included in  
2 the Exhibit 5 CSR?

3 A. Yes.

4 Q. Several in-person meetings? And I'm  
5 talking specifically -- not just regarding the  
6 investigation necessarily but more so, okay, we  
7 got this directive, we got to get this out.  
8 Were there in-person meetings following Eugene  
9 Roy's directive to --

10 A. Yes, again -- specifics, I can't  
11 swear to it, but I believe it was on a Wednesday  
12 that Commander Roy said he wanted the paperwork  
13 done by Friday. Wojcik got him to push that  
14 back to Monday. So then in the next however  
15 many days that is we -- the three of us worked  
16 together.

17 Q. Was anyone else involved in meetings  
18 or the drafting process?

19 A. No, this was just to -- the  
20 investigation was done, everything had been  
21 done, the conclusions had been reached, it was  
22 just a matter of putting the paperwork together.

23 Q. Was anyone else involved sort of in  
24 the reaching of those conclusions?

1           A.     The three of us put the reports  
2 together, but we were informed specifically by  
3 Commander Roy and by Lieutenant Valdez  
4 especially because they had contact with the  
5 command -- we were informed -- we had personal  
6 contact with Roy and Valdez.

7                     And they in turn had informed us that  
8 the two them had conducted separate briefings at  
9 separate executive management meetings at public  
10 safety headquarters which were conducted  
11 regarding -- their briefings were regarding this  
12 incident and the investigation for the benefit  
13 of the -- I'm not sure exactly how it works  
14 because, again, that's above my level, but my  
15 understanding is this is an executive management  
16 meeting to allow the entire command staff,  
17 whoever is either interested or, you know, if  
18 there's a designated personnel are that -- that  
19 this is for, as opposed to those that are not, I  
20 don't know, but it's for a number of  
21 higher-ranking command staff members of the  
22 police department to brief them on the incident  
23 and the investigation.

24                     And both Roy and Valdez -- we

1 personally had contact with them -- they agreed  
2 with our findings. Not that they reviewed this  
3 e-mail, but we had conversations to the effect  
4 of what the e-mail says and they --

5 Q. Do you mean the report or --

6 A. No, the conclusions. The --

7 Q. Oh, the conclusions. Okay.

8 A. The conclusion --

9 Q. The conclusions?

10 A. -- of the investigation which are  
11 reflected in the e-mail which ended up in the  
12 report which, again, they are our conclusions.

13 Valdez and Roy both personally told  
14 us that they agreed with our conclusions, and  
15 they told us that, based on the two different  
16 briefings that they each conducted at executive  
17 management meetings, as far as they were aware,  
18 every -- as far as they were aware, everyone in  
19 the command staff was in agreement.

20 Q. And who's -- do you know who was in  
21 those command staff meetings?

22 A. I have no idea, but I do know that at  
23 least one of them included the superintendent.

24 Q. And so Valdez and Roy told you that

1 they had conducted two separate command staff --

2 A. To my --

3 Q. -- briefings at command staff  
4 meetings?

5 A. To my understanding, there were two  
6 separate executive management meetings. One I  
7 know occurred within a few days of the incident,  
8 and the other one I'm -- I imagine happened not  
9 long after that. Maybe -- I don't know why, if  
10 there were some command staff members that  
11 weren't present -- weren't able to attend the  
12 first one.

13 But according to Roy and Valdez, in a  
14 short period of time after the incident, there  
15 were two separate executive management meetings  
16 where briefings were conducted on this  
17 investigation. One briefing was conducted by  
18 Roy, the other by Valdez, and both of them  
19 personally indicated to me, as well as Gallagher  
20 and Wojcik, that everyone in the command staff  
21 agreed with the findings of the investigation.

22 Q. Okay. And so those are -- those  
23 command staff meetings are likely occurring in  
24 October 2014 or November of 2014?

1 A. Correct.

2 Q. And according to Roy and -- what they  
3 told you, what Roy and Valdez told to you, the  
4 members -- or the participants in that command  
5 staff meeting were on board with your findings  
6 that ultimately were included in the Exhibit 5  
7 CSR?

8 A. Correct.

9 Q. Do you know if around in March of  
10 2015 when the settlement's coming, when Roy's  
11 giving his directive, if there were any further  
12 command staff meetings?

13 A. I do not know. I have no knowledge  
14 of that. But, again, at that point in time, I  
15 did have personal contact with Roy and Valdez,  
16 and both of them continued to indicate that they  
17 were in agreement with everything that the  
18 investigation concluded and that they were not  
19 aware of anyone in the Department expressing any  
20 opinions otherwise.

21 Q. To your knowledge, how many people  
22 reviewed the Exhibit 5 CSR before it received  
23 final approval?

24 A. I believe it was just myself,

1 Gallagher and Wojcik is the one that actually  
2 went in the computer and actually approved the  
3 report.

4 Q. Are you --

5 A. And then once he approved it, it had  
6 to be on Roy's desk the following Monday  
7 morning, and then I imagine it was disseminated  
8 to the other command staff members, whoever  
9 would need it.

10 Q. But prior to Lieutenant Wojcik's  
11 approval, you're not aware of anyone other than  
12 Sergeant Gallagher and Lieutenant Wojcik  
13 reviewing the CSR?

14 A. The final report?

15 Q. Yeah.

16 A. Correct.

17 Q. So you received these e-mails on a  
18 work e-mail account, correct --

19 A. Correct.

20 Q. Exhibits 14 and 15?

21 A. I'm assuming that's what this is.

22 Q. Did folks ever e-mail you regarding  
23 this case at your personal e-mail account?

24 A. No.

1 Q. Can someone -- do you even have a  
2 phone that someone could text you on at work?

3 MR. MCKAY: What are we talking about?

4 BY MR. NEUMER:

5 Q. Like you said you don't have -- do  
6 you have a work cell phone?

7 MR. MCKAY: He's already testified about  
8 his personal cell phone. That was several hours  
9 ago.

10 BY MR. NEUMER:

11 Q. So there's no way for you to get like  
12 an official work text on a phone?

13 A. What exactly do you mean by "official  
14 work texts"?

15 Q. All right, so like sometimes you use  
16 your personal phone for -- was that the nature  
17 of the testimony?

18 MR. BROWN: Yeah, I think --

19 BY MR. NEUMER:

20 Q. There's not like a City-issued phone  
21 that you could get texts on?

22 A. Correct.

23 Q. Okay. That's it. In the Exhibit 5  
24 there's a statement on Page 22, third paragraph

1 from the bottom, "Based upon all the facts known  
2 at this time" -- sorry, I'll let you...

3 "Based upon all the facts known at  
4 this time and the death of the only offender in  
5 this incident, this case is now exceptionally  
6 cleared closed/other exceptional clearance -  
7 death of offender."

8 What does it mean to close a case  
9 exceptionally cleared close/other exceptional  
10 clearance?

11 A. These are -- I believe these all go  
12 back to the uniform crime reporting requirements  
13 which basically come from the FBI to attempt to  
14 standardize crime reporting throughout the  
15 nation. So there are certain guidelines that  
16 have to be followed.

17 And once a criminal case is reported,  
18 there are certain dispositions that are approved  
19 by the FBI. A case -- anything short of a  
20 homicide, if the case is not going anywhere, it  
21 can't be closed if it's still an open  
22 investigation, so it's classified as suspended  
23 for the time pending any further developments.

24 Any other cases would be -- some of

1 the other -- and, again, this is not an  
2 all-inclusive list because there are many, you  
3 could -- if you determine that no criminal  
4 activity occurred as a result of investigation,  
5 you can close it as a non-criminal incident.

6           You can clear a case, and there's  
7 several ways to clear a case. You can clear a  
8 case -- you can clear a case by arrest. You can  
9 clear the case by referral to juvenile court,  
10 and that means the offender has been identified  
11 and arrested or arrested and sent to juvenile  
12 court.

13           There is a classification cleared --  
14 like closed, complainant refused to prosecute,  
15 but the Department has been getting away from  
16 using that classification.

17           There's a couple different parts to  
18 this status. There's cleared. Cleared means  
19 the offender's been identified and it's been  
20 taken as far as it can go.

21           Cleared closed means all offenders  
22 have been identified, all offenders are in  
23 custody and charged.

24           Cleared open is if you have multiple

1 offenders. One is under arrest but not all of  
2 them, so the case is cleared, but it's not  
3 closed because there's still an offender we're  
4 looking for. Until all the offenders are in  
5 custody, then it can be closed.

6 Exceptional clearances are, as in  
7 this case, it's exceptionally cleared closed.  
8 There is only one offender, and he is  
9 identified. The exceptional type is it's an  
10 other exceptional clearance because it can't be  
11 prosecuted because the offender is dead.

12 So in this case it's exceptionally  
13 because it's not cleared by an arrest or  
14 anything; it's an exceptional clearance. It's  
15 cleared because the investigation is complete.  
16 It's closed because all the offenders are  
17 identified and it's run its course.

18 It's called other exceptional  
19 clearance, and the other exceptional clearance  
20 is there can be no prosecution because of the  
21 death of the offender.

22 So that's the explanation for that  
23 classification.

24 Q. With respect to that finding and also

1 like the other findings in Exhibit 5 CSR, was  
2 there any disagreement in CPD regarding those  
3 findings that you are aware of?

4 A. Regarding which findings? I'm sorry.

5 Q. We can go -- I'll tell you what,  
6 we'll strike that. We'll go one at a time here.

7 There is -- I'll direct your  
8 attention to Page 19 of the Exhibit 5 CSR.  
9 Fourth paragraph from the bottom starting with,  
10 "The recovered in-car camera video."

11 MR. MCKAY: You mean the second paragraph  
12 from the bottom?

13 MR. NEUMER: I'm looking at --

14 MR. MCKAY: You know what, my printed copy  
15 probably has a different format. Go ahead.

16 MR. NEUMER: No problem.

17 MR. BROWN: Do you need a copy?

18 MR. MCKAY: No. No. No.

19 BY MR. NEUMER:

20 Q. Look at that paragraph. And now I'm  
21 going to direct you to the Notice of  
22 Allegations, which is on Page 1, Number 1,  
23 Subsection A, and then Roman numeral II.

24 So it is alleged that you failed to

1 conduct a complete, thorough, properly  
2 documented, and professional investigation  
3 respecting RD Number HX475653. Specifically you  
4 failed to draft truthful, complete, and  
5 objective Case Supplementary Reports concerning  
6 the McDonald shooting, specifically the Case  
7 Supplementary Report you submitted on or about  
8 March 15, 2015, the Exhibit 5 CSR, falsely  
9 stated that the in-car camera videos recovered  
10 from vehicles 813 Robert and 845 Robert were  
11 consistent with the accounts of all the  
12 witnesses to the McDonald shooting.

13 What is your response to that  
14 allegation?

15 A. That allegation is false.

16 Q. I want to go through some of the  
17 various testimony in the Exhibit 5 CSR. So we  
18 can go to Page...

19 A. Just to expound a little bit, I  
20 believe that the video is consistent with the  
21 statements of the witnesses, that's why I stated  
22 that in the report.

23 Q. So I'm going to direct your attention  
24 to Page 10 of the Exhibit 5 CSR.

1                   So in the second-to-last paragraph on  
2   Page 9, the two last sentences of that  
3   paragraph, Van Dyke stated, "Van Dyke ordered  
4   McDonald to drop the knife multiple times.  
5   McDonald ignored Van Dyke's verbal direction to  
6   drop the knife and continued to advance toward  
7   Van Dyke" --

8 | A. I'm sorry, where are you?

9 Q. We are on the second-to-last  
10 paragraph on Page 9.

|    |          |
|----|----------|
| 11 | A. Okay. |
|----|----------|

12 Q. And then it is the last two  
13 sentences --

|    |          |
|----|----------|
| 14 | A. Okay. |
|----|----------|

15 Q. -- of that second-to-last paragraph.  
16 So it begins, "Van Dyke ordered."

17                   So the statement is, "Van Dyke  
18 ordered McDonald to drop the knife multiple  
19 times. McDonald ignored Van Dyke's verbal  
20 direction to drop the knife and continued to  
21 advance toward Van Dyke."

22                   The question is, is  
23   Officer Van Dyke's statement that I just read to  
24   you consistent with the 813 Robert dash cam

1 video?

2 A. Yes. If you look at the dash cam  
3 video, from the time Officer Van Dyke exits his  
4 vehicle until the time he fires his handgun,  
5 McDonald is walking southbound, and the distance  
6 between the two men is decreasing. So I found  
7 that consistent with Van Dyke saying what he did  
8 there.

9 Q. Okay.

10 A. There is no audio, so I can't comment  
11 as far as -- there's nothing inconsistent about  
12 Van Dyke saying, "Drop the knife" because we  
13 don't have audio to be inconsistent there.

14 Q. Continuing on --

15 A. Oh, and it says, "McDonald ignored  
16 Van Dyke's verbal direction to drop the knife  
17 and continued." Not only did he continue to  
18 advance, he never dropped the knife. So he did  
19 ignore the verbal direction to drop the knife  
20 and he continued to advance. You can see that  
21 because the distance is decreasing.

22 Q. Let's see, in the narrative summary  
23 in Exhibit 5, it says, quote -- and I'm now in  
24 the last paragraph -- "When McDonald got within

1 10 to 15 feet of Officer Van Dyke, McDonald  
2 looked toward Van Dyke. McDonald raised the  
3 knife across his chest and over his shoulder  
4 pointing knife at Van Dyke."

5 Is that statement attributed to  
6 Van Dyke consistent with the 813 Robert video?

7 A. Yes, just prior to Van Dyke firing  
8 his handgun, you can see McDonald, as he's  
9 walking southbound, turns to his left and he  
10 begins to bring his right arm up. And then the  
11 rest is -- the video you can't see his right arm  
12 anymore because it's obstructed by his body.

13 But I found the video to be  
14 consistent because in the video it is -- they  
15 are about the distance of one traffic lane --  
16 which we estimated to be about ten feet wide --  
17 that's the distance between the two men.

18 McDonald did look toward Van Dyke, he  
19 turned toward his left, squared his shoulders  
20 toward Van Dyke, and you can see in the video  
21 him begin to raise the knife with his right arm,  
22 and then the rest of the movement is blocked by  
23 his body.

24 Q. Can you see him pointing the knife at

1 Van Dyke?

2 A. Well, he's walking down the street in  
3 this direction (indicating) and turns to his  
4 right and begins to raise the knife. So it does  
5 look -- to me, it appears that he is raising the  
6 knife pointing it towards Van Dyke.

7 Q. And you were referring walking in a  
8 southbound direction; is that --

9 A. Correct.

10 Q. The next statement is, "Van Dyke  
11 believed McDonald was attacking Van Dyke with  
12 the knife and attempting to kill Van Dyke."

13 Do you feel that that statement is  
14 consistent with what is reflected in the  
15 813 Robert dash cam video?

16 A. Yes. As I said, you see McDonald  
17 turn to his left towards Van Dyke and the right  
18 arm begin to raise until it's out of view. And  
19 then we -- from that particular video, you can't  
20 see the perspective of what Jason Van Dyke saw.  
21 So there's nothing inconsistent with what  
22 Van Dyke said.

23 Q. The next line, "In defense of his  
24 life, Van Dyke backpedaled and fired his handgun

1 at McDonald to stop the attack." Is that  
2 consistent with the 813 Robert dash cam video?

3 A. Yes, I believe it is. Just prior to  
4 firing the handgun, Jason Van Dyke takes a  
5 couple of steps forward and then he begins to  
6 fire the handgun. And then because of the --  
7 I'm assuming it's the movement of the car that  
8 has the dash cam, Van Dyke goes out of frame so  
9 then we can't see what he's doing while he  
10 continues to fire his handgun. So, again,  
11 there's nothing inconsistent there.

12 Q. Because he might have backpedaled  
13 after he's out of the frame?

14 A. And, in fact, if you look at the  
15 Dunkin' Donuts video, it does look like there's  
16 movement from right to left of both officers,  
17 Van Dyke and Walsh, which I found to be  
18 consistent with them saying that they were  
19 backpedaling.

20 Q. The next statement, "McDonald fell to  
21 the ground but continued to move and continued  
22 to grasp the knife refusing to let go of it" --  
23 and I should say is that -- when you made  
24 your -- your statement was that the testimony

1 was consistent with the 845 Robert and  
2 813 Robert -- the recovered in-car camera from  
3 beats 845 Robert and 813 Robert was viewed and  
4 to be consistent with the accounts of all the  
5 witnesses. Had you viewed the Dunkin' Donuts  
6 video at that time?

7 A. Yes, and I could have included that  
8 video and maybe should have included that video  
9 in that particular statement because there's  
10 nothing inconsistent in the Dunkin' Donuts video  
11 either.

12 Q. So --

13 A. And, as I just said, the Dunkin'  
14 Donuts video picks up some of the movement that  
15 is not included in the dash cam video.

16 Q. Let's see. So, again, the quote here  
17 is from the Exhibit 5 CSR Page 9, "McDonald fell  
18 to the ground but continued to move and  
19 continued to grasp the knife refusing to let go  
20 of it."

21 Is that statement consistent with the  
22 dash cam videos and the Dunkin' Donuts video?

23 A. Yes, I believe the dash cam video  
24 clearly shows that while Van Dyke is on the

1 ground, he's continuing to move --

2 MR. MCKAY: Van Dyke?

3 BY THE WITNESS:

4 A. Not Van Dyke. I'm sorry, McDonald.

5 While McDonald is on the ground, he  
6 continues to move. You can see his right hand.  
7 He continues to hold the knife and point it in  
8 the direction of Officer Van Dyke.

9 BY MR. NEUMER:

10 Q. The next statement, "Van Dyke  
11 continued to fire his weapon at McDonald as  
12 McDonald was on the ground as McDonald appeared  
13 to be attempting to get up, all the while  
14 continuing to point the knife at Van Dyke."

15 Is that statement consistent with the  
16 813 Robert and 845 Robert and Dunkin' Donuts  
17 videos?

18 A. Yes, I believe it is. Again, like I  
19 said, he's moving -- McDonald is moving on the  
20 ground. You can see he still has the knife in  
21 his hand and he is still pointing it at  
22 Officer Van Dyke.

23 Q. Does he appear to be attempting to  
24 get up?



1           A.       Yes.  Again, as I said before, the  
2 video shows him continuing to move towards the  
3 officers.  The distance between McDonald and the  
4 officers decreased.  And, again, we don't have  
5 audio, but it's clear that he is holding the  
6 knife and never drops it as he's being ordered  
7 to.

8 Q. The next quote, "When McDonald got  
9 within 12 to 15 feet of the officers, he swung  
10 the knife toward the officers in an aggressive  
11 manner."

12                   Is that statement attributed to  
13   Officer Walsh consistent with the 813 Robert,  
14   845 Robert, and Dunkin' Donuts videos?

15           A.     Yes, again, as I said before, just  
16 before the shots are -- before Van Dyke fires  
17 his weapon, you can see McDonald turning to his  
18 left, squaring his shoulders toward the  
19 officers, and you can see the right arm begin to  
20 come up before it's obstructed by his torso.

21 Q. Do you think it's fair to say that  
22 you can see on the video him swinging the knife  
23 towards the officers in an aggressive manner?

24 | A. Again, that's Walsh's perspective,

1 and we don't have specific video showing exactly  
2 what he saw, so, again, I don't see anything in  
3 the video we do have that's inconsistent with  
4 his perception.

5 Q. Do you see any -- is there video  
6 evidence that he does swing the knife towards  
7 the officers in an aggressive manner?

8 A. Again, as I said, we see him turn to  
9 the left -- again, we're talking about uniformed  
10 officers yelling -- shouting at him to drop the  
11 knife. He's not surrendering. He's not  
12 dropping the knife. Instead, he turns directly  
13 towards the officers and brings that right arm  
14 up.

15 I don't think there's anything  
16 inconsistent in that video with what the  
17 officers are saying, and specifically  
18 Officer Walsh at this point.

19 MR. MCKAY: Can I ask a question,  
20 Mr. Neumer? There appears to be video equipment  
21 in this room. Are you going to show the video  
22 to Detective March to let him identify in the  
23 video why he believes it?

24 MR. NEUMER: Do you want to do that?

1 MR. McKAY: Well, ask Detective March if he  
2 wants to do that, if you don't mind.

3 MR. NEUMER: No.

4 BY MR. NEUMER:

5 Q. Do you want to go through the video?

6 A. Sure. I'm going to take a quick  
7 break.

8 MR. NEUMER: We're off the record at  
9 4:35 p.m.

10 (WHEREUPON, a recess was had.)

11 MR. NEUMER: The time is 4:46 p.m., and  
12 we're going back on the record.

13 BY MR. NEUMER:

14 Q. Detective March, I'm now going to  
15 show you a portion of the video that was  
16 recovered from the in-car video system of the  
17 Beat 813R vehicle. This is one of the videos  
18 that OIG provided to you on April 7th, 2016 on  
19 DVD.

20 Kris has already opened up the VLC  
21 media file titled video\_ts.ifo on his laptop.  
22 The file contains six minutes and five seconds  
23 of footage. The video also has a time stamp on  
24 it indicating the date and time the video was

1 recorded.

2 And we -- well, I would propose we  
3 advance the video several minutes in. Would you  
4 like to see the whole video, or are you okay  
5 with us moving the video forward to when the  
6 813 Robert vehicle gets to the Burger King?

7 A. You mean like right here?

8 Q. Sure. Is there anything in the first  
9 4 minutes and 17 seconds of the video that you  
10 think you would like to see as we look through  
11 this?

12 My questions are going to be focused  
13 primarily on the 20 seconds -- well, let's say  
14 30 seconds surrounding the shooting, both before  
15 and after, but if there's anything else you'd  
16 like to see on the video that will help you  
17 provide answers to the questions I'm going to  
18 ask -- it's going to be pretty similar to the  
19 questions I was asking before. We're happy to  
20 let you view whatever portion of the video you'd  
21 like to see as many times as you'd like to see  
22 it.

23 A. This is fine.

24 MR. McKAY: Let's start it right here then.

1 (VIDEO BEING PLAYED)

2 MR. McKAY: Do you have the ability to stop  
3 at a moment's notice?

4 MR. BROWN: Yes, just say the word.

5 MR. McKAY: Dave will have to, but go  
6 ahead.

7 MR. NEUMER: Let's pause it.

8 BY MR. NEUMER:

9 Q. My first question is with respect to  
10 Van Dyke's testimony in the CSR that McDonald  
11 ignored his verbal directions to drop the knife  
12 and continued to advance toward Van Dyke.

13 So I'm going to ask you to stop -- or  
14 direct Kris to stop the video at the point where  
15 you see McDonald advance toward Van Dyke.

16 A. What part of the statement are you  
17 referring to?

18 Q. So Van Dyke ignored -- McDonald  
19 ignored Van Dyke's -- so the second paragraph to  
20 the last, second paragraph from the bottom on  
21 Page 9, "McDonald ignored Van Dyke's verbal  
22 direction to drop the knife and continued to  
23 advance toward Van Dyke."

24 So I'm going to ask you to direct

1 Kris to stop the video when you see McDonald  
2 advancing toward Van Dyke."

3 A. Well, I can tell you right now it's  
4 going to be the entire time from the time  
5 Van Dyke gets out of the vehicle until he fires  
6 his weapon.

7 During all that time, you will see --  
8 McDonald, he's walking southeast initially,  
9 comes back to the center, walks out, goes a  
10 little southwest and then he turns -- generally  
11 he's going southbound the entire time on  
12 Pulaski, and right before Van Dyke shoots, fires  
13 his weapon, McDonald turns to his left.

14 But the entire time from the time  
15 Van Dyke gets out of his vehicle until the shots  
16 are fired, Van Dyke is walking in the  
17 direction -- southbound towards Van Dyke, and  
18 the distance between them is getting smaller.

19 Q. And so what we'll do is -- you can  
20 see right now on the screen is a time bar, and  
21 it says 4 minutes 28 seconds. And for our  
22 purposes, the time stamp on the video comes up  
23 intermittently. But if folks aren't opposed,  
24 we'll use that 4-minute-28-seconds time stamp to

1 indicate the time frame we're talking about.

2 When it's five minutes, it will be five minutes  
3 and so on.

4 And so what I would ask you,  
5 Detective March, is, understanding you've given  
6 us a preview of what you're going to be  
7 identifying on the video, if you could still  
8 direct Kris to stop the video when you see  
9 McDonald begin to advance toward Van Dyke and  
10 then we'll note the time on the -- that time bar  
11 on the bottom and then again when he has ceased  
12 to advance toward Van Dyke. Does that sound  
13 reasonable?

14 A. Okay.

15 Q. Okay. We'll start the video.

16 (VIDEO BEING PLAYED)

17 BY THE WITNESS:

18 A. Okay, stop. Now Van Dyke is getting  
19 out of his vehicle. And look where McDonald is.  
20 Look at the distance between them.

21 MR. NEUMER: Okay. So Detective March has  
22 directed Kris to stop at 4 minutes and  
23 39 seconds is the time that is visible on the  
24 time bar of the video. That's 4 minutes and

1 39 seconds out of 6 minutes and 6 seconds.

2 BY MR. NEUMER:

3 Q. If it's okay with you,  
4 Detective March, I'm going to have Kris start  
5 the video, and what I want you to do is, tell me  
6 when he stops advancing toward Officer Van Dyke.  
7 Does that sound reasonable?

8 A. Okay.

9 Q. We'll start the video.

10 (VIDEO BEING PLAYED)

11 BY THE WITNESS:

12 A. Stop. Like I said, right when the  
13 shots are fired. It --

14 BY MR. NEUMER:

15 Q. So 4 minutes and 46 seconds on the  
16 time bar. The time stamp that is visible on the  
17 screen says October 20th, 2014, 9:57:36 p.m. So  
18 that's 9:57 and 36 seconds p.m.

19 Detective March, is it fair to say  
20 that that entire -- from your perspective, from  
21 4:39 on that time bar to 4:46 on that time bar,  
22 McDonald was advancing toward Officer Van Dyke  
23 at all times?

24 A. Yes.

1 Q. Next we're going to back up the video  
2 a little bit. I don't think we need to go more  
3 than 10 seconds for my next question, but you  
4 correct me if you need to see more of the video  
5 to give us context.

6 My question relates to Van Dyke's  
7 statement in the bottom paragraph on Page 9 of  
8 Exhibit 5 CSR that, when McDonald got within 10  
9 to 15 feet of him, he raised the knife across  
10 his chest and across his shoulder pointing the  
11 knife at Van Dyke.

12 I'm going to ask you to have Kris  
13 stop the video when you see McDonald raise the  
14 knife across his chest and over his shoulder and  
15 pointing the knife at Van Dyke. Does that sound  
16 reasonable?

17 A. Okay.

18 Q. Okay. We're going to...

19 (VIDEO BEING PLAYED)

20 BY THE WITNESS:

21 A. Stop. Now you see the right arm has  
22 come up in front of his body. Now he's going to  
23 continue to turn his body. You saw him begin to  
24 bring the right arm up, and now he's going to

1 turn the body. Now the arm is in front of his  
2 body because he's bringing it around towards  
3 Van Dyke.

4 MR. NEUMER: So the time is 4:45 on the VLC  
5 media player time bar. There is no time stamp  
6 visible on the screen. Based on the last  
7 question and the direction to stop. I think  
8 this is one second before the time stamp will  
9 appear 9:57 and 36 seconds, but, again, the  
10 important number is 4:45, which is when  
11 Detective March has directed us to stop the  
12 video.

13 BY MR. NEUMER:

14 Q. Let's see. So the next question is,  
15 Van Dyke states that he, in defense of his life,  
16 backpedaled and fired his handgun at McDonald to  
17 stop the attack.

18 So we're going to back up the video a  
19 little bit, and we're going to play the video.  
20 And, again, I'm going to ask you to,  
21 Detective March, direct Kris to stop the video  
22 when you see Officer Van Dyke backpedal.

23 A. So you know, we're not going to see  
24 him backpedal in this video because he goes out

1 of frame. And it's because of the Dunkin'  
2 Donuts video that makes me believe that the  
3 videos are consistent with his statement that --

4 Q. So we'll have to watch the Dunkin'  
5 Donuts video. So we'll reserve that question  
6 because you're saying we're not going to see --

7 A. You're not going to see him  
8 backpedaling here.

9 Q. So the next question, Van Dyke stated  
10 that McDonald fell to the ground but continued  
11 to move, continued to grasp the knife refusing  
12 to let go of it. Van Dyke continued to fire his  
13 weapon at McDonald as McDonald was on the ground  
14 as McDonald appeared to be attempting to get up  
15 all the while continuing to point the knife at  
16 Van Dyke.

17 So now we're going to watch the  
18 video, and I want you to direct Kris to stop the  
19 video when you see McDonald appear to be  
20 attempting to get up -- or -- yes, that's when I  
21 want you to stop him.

22 A. Well, he's on the ground moving for a  
23 number of seconds.

24 Q. Okay.



1 BY THE WITNESS:

2 A. Stop. He hit the ground and he's  
3 already -- his torso has moved from right to  
4 left already once right there.

5 Q. So we're at 4:49 on the VLC media  
6 time bar. The time stamp that appears on the  
7 screen is October 20th, 2014, 9:57:38.

8 So now I want you to identify when  
9 Laquan McDonald stops attempting to get up.

10 A. I might also point out to you, you  
11 see the car in the background there, how far  
12 away it is? That is the closest vehicle in  
13 traffic that could be a potential witness, and  
14 you see how far away it is.

15 Q. And that's -- can you tell if  
16 that's -- that's the northbound -- that vehicle  
17 is moving --

18 A. This is southbound. He's at the  
19 curb --

20 Q. Oh, that vehicle --

21 A. The one with the headlights is even  
22 further away.

23 Q. You're looking at the vehicle on the  
24 west side --

1 A. West curb facing southbound. The  
2 vehicle with the headlights coming towards us is  
3 even further back.

4 Q. And so now, again, I want you to --  
5 you've identified when, from your perspective,  
6 Laquan McDonald made his first attempt to get  
7 up. And now I want you to identify when Laquan  
8 McDonald ceased to make attempts to get up. And  
9 if it's okay, we'll start the video.

10 (VIDEO BEING PLAYED)

11 BY THE WITNESS:

12 A. Stop. I think that's about the last  
13 movement.

14 BY MR. NEUMER:

15 Q. So we're at 4:57 on the VLC media  
16 player time bar. There's no time stamp visible  
17 on the screen.

18 A. Just for my information, what was the  
19 first time when we first stopped it?

20 MR. BROWN: 4:49.

21 BY MR. NEUMER:

22 Q. And so from your viewing of the  
23 video, Detective March, is it --

24 A. In my opinion, there's definitely

1 movement on his part from what we do see. We  
2 don't have Jason Van Dyke's perspective, so when  
3 he says, I saw him moving, it looked to me like  
4 he was getting up, I don't see anything  
5 inconsistent here.

6 Q. So that was from 4:49 on the VLC  
7 media player to 4:57 on the VLC media player  
8 time bar; is that fair to say?

9 A. Yes.

10 Q. So we talked before about  
11 Officer Walsh backing up as McDonald approached  
12 him and Officer Van Dyke. Would you need to see  
13 the Dunkin' Donuts video with respect to that  
14 statement?

15 A. Yes.

16 Q. So, let's see, Walsh stated -- and  
17 again, this is on Page 10 -- that McDonald swung  
18 a knife toward him and Officer Van Dyke -- and  
19 I'm paraphrasing a little bit -- when he and --  
20 when McDonald --

21 MR. MCKAY: What page, Counsel?

22 MR. NEUMER: This is Page 10 -- sorry,  
23 actually, I think it's right at the bottom of  
24 Page 10 and top of Page 11.

1 BY MR. NEUMER:

2 Q. When McDonald got within 12 to  
3 15 feet of the officers, he swung the knife  
4 toward the officers in an aggressive manner.

5 Is it fair to say that this was  
6 the -- that you identified the time of this  
7 aggressive swing of the knife minutes prior?  
8 Right, was this -- was this the same --

9 MR. McKAY: Did you say minutes prior?

10 MR. NEUMER: Meaning minutes prior in this  
11 interview today.

12 MR. McKAY: Oh.

13 MR. NEUMER: Sorry. Bad question. Let me  
14 start over.

15 MR. McKAY: No apologies necessary.

16 BY MR. NEUMER:

17 Q. So earlier we asked you to identify  
18 when it was, from your perspective, when you saw  
19 Laquan McDonald raise the knife across his chest  
20 and over his shoulder pointing the knife at  
21 Van Dyke; is that correct? We did that just a  
22 couple moments ago?

23 A. Yes.

24 Q. Is that -- the time frame of this

1 video that you identified, would that be the  
2 same time frame that you would identify with  
3 respect to Officer Walsh's statement that when  
4 he got to within 12 to 15 feet of the officers,  
5 he swung the knife towards the officers in an  
6 aggressive manner?

7 A. Yes.

8 Q. All right.

9 A. And, again, it's the same  
10 explanation. We see -- on this video that we do  
11 have, in my opinion, it shows Van Dyke turning  
12 to his left. You see the right arm begin to  
13 come up before it's obstructed by his body.  
14 Again, we don't have Officer Walsh's  
15 perspective. He says it looked to him like he  
16 was swinging the knife towards the officers in  
17 an aggressive manner.

18 In this video, in my opinion, you see  
19 him begin to swing the knife towards the  
20 direction of the officers, and I don't think  
21 that's inconsistent with what Officer Walsh  
22 said.

23 Q. Okay. So now we'll pull up the  
24 Dunkin' Donuts video --

1 A. Can we -- can we --

2 Q. Sure. Sure.

3 A. I think there's -- see, and I think  
4 this is the problem with the entire situation,  
5 is that people want to concentrate on 15,  
6 20 seconds of video and not the entire incident  
7 as it actually occurred. So I would like to go  
8 back --

9 MR. BROWN: You mean like a minute?

10 THE WITNESS: Before Van Dyke gets out of  
11 his car. As they're driving --

12 MR. BROWN: Still on Pulaski?

13 THE WITNESS: Yes, still on Pulaski. Just  
14 maybe 20 seconds earlier or whatever.

15 MR. MCKAY: Play it there. Start there.

16 THE WITNESS: Yeah, this is fine. This is  
17 close. And if you wouldn't mind stopping it --

18 MR. BROWN: Sure.

19 (VIDEO BEING PLAYED)

20 BY THE WITNESS:

21 A. Can we stop it here.

22 BY MR. NEUMER:

23 Q. For the record, so we've stopped it  
24 at 4:35 on the VLC media player, and the time

1 stamp visible on the screen is 9:57:25.

2 A. I think it's important to be aware of  
3 all of the facts that are at play at this point,  
4 okay?

5 At this point in time, a civilian has  
6 called 911 to report someone who turns out to be  
7 Laquan McDonald breaking into trucks in a truck  
8 lot.

9 Subsequent to calling 911, Rudy  
10 Barillas, who is the complainant, confronts  
11 Laquan McDonald personally and tells him to get  
12 out of the lot.

13 Laquan McDonald doesn't respond  
14 verbally; instead, according to both Rudy  
15 Barillas and his wife, Yuli Garcia, who was also  
16 present to witness this, they say he  
17 quote/unquote growled at them, okay?

18 And that's when he first produces the  
19 knife, and he swings the knife at Rudy Barillas  
20 attempting to cut him. And Rudy Barillas has to  
21 step back and throw his cell phone at him in  
22 defense to keep himself from being injured.

23 So at this point, Laquan McDonald has  
24 committed burglary, attempt first degree murder

1 or aggravated battery causing great bodily  
2 alarm. Burglary, once he confronts a person  
3 instead of just property, it become a robbery.  
4 And because he's armed with a knife, it's an  
5 armed robbery.

6 So that's all before the police ever  
7 get on the scene all these things occur. And  
8 that's not -- that's not the police saying it;  
9 that's the citizen and his wife who initially  
10 called 911.

11 When the police respond to the  
12 call -- that's Officers Gaffney and  
13 McElligott -- they find Rudy Barillas and his  
14 wife, Yuli Garcia, in the truck lot. Barillas  
15 tells them what happened and tells him that he  
16 last saw the offender fleeing northbound on  
17 Kildare and then last saw him turn eastbound on  
18 40th Street.

19 So now the Officers Gaffney and  
20 McElligott drive northbound on Kildare to  
21 40th Street and turn right to go eastbound on  
22 40th. And they see Laquan -- this is -- we're  
23 not talking about where we're at now. This is  
24 four blocks earlier, okay, where they were at.

1 It's an industrial area, it's almost 10:00 at  
2 night, the place is deserted.

3 All of the businesses are closed.

4 Rudy was finishing up for the day parking his  
5 truck in the lot, and then his wife was going to  
6 drive him home. So there's nobody around. Rudy  
7 told them what happened and gave them a basic  
8 description of who the offender was.

9 They turn the corner on 40th Street  
10 and Gaffney and McElligott observe only one  
11 person, Laquan McDonald, walking eastbound on  
12 the south side of 40th Street down the sidewalk.  
13 He's the only person there and he does, in fact,  
14 fit the description Rudy gave the officers.

15 Gaffney, who is driving their police  
16 vehicle, stopped the vehicle. McElligott got  
17 out of the vehicle. McElligott approached  
18 McDonald from the rear and said, Stop. McDonald  
19 ignores his verbal direction or command and  
20 continues walking eastbound.

21 McElligott noticed that McDonald's  
22 hands were in his pockets at the time, and he  
23 tells him, "Take your hands out of your  
24 pockets." Laquan McDonald takes his hand out of

1 the pockets and McElligott notices he's got  
2 now -- he's holding a knife in his right hand.

3 McElligott draws his handgun for his  
4 own safety, and Gaffney in the police vehicle  
5 sees the same thing happen and sees that  
6 McDonald is armed with a knife. So he gets on  
7 the radio and tells the dispatcher -- which all  
8 of the other units in the 8th District hear this  
9 radio transmission -- We are following a guy.  
10 Now he's armed with a knife.

11 Gaffney also asked the dispatcher for  
12 a unit equipped with a Taser. So all of this  
13 time the officers are attempting to use the  
14 minimal amount of force against Laquan McDonald.  
15 They feel they have the time to do that because  
16 they're in a deserted industrial area where  
17 there's nobody at risk here.

18 The only people at risk are the  
19 officers. Gaffney is inside a police vehicle,  
20 so he has some protection and he's armed.  
21 McElligott is on foot but he's staying a safe  
22 distance from McDonald and he's got his handgun  
23 out already just in case. But they have time to  
24 work with this, so they request a car with a

1 Taser.

2 So they continue on eastbound on  
3 40th Street. As I'm sure you've seen in the  
4 Food Depository video, it shows very clearly it  
5 happened exactly as the officers said. You see  
6 in the video from two different angles Laquan  
7 McDonald walking down the street completely  
8 ignoring the verbal direction he's being given  
9 by the officers.

10 McElligott is following him on foot  
11 at a safe distance. He's got a flashlight in  
12 one hand, you can see the brightness of the  
13 flashlight, and has his handgun in the other  
14 hand.

15 Gaffney is following along in the  
16 police vehicle. And the reason Gaffney stayed  
17 in the police vehicle all this time is, in case  
18 at some point McDonald decides to run, it's much  
19 easier to try to keep up with a runner when  
20 you're in a vehicle as opposed to running on  
21 foot after him and he gives you the opportunity  
22 to try to cut him off.

23 Gaffney follows in the vehicle, and  
24 he's got, you can see in the video, the

1 spotlight from the squad car is on him, too,  
2 because these officers know they're dealing with  
3 a deadly threat here. They see he's armed with  
4 a knife and they want to make sure he's  
5 illuminated good and they see exactly what he's  
6 going to do.

7 So he continues eastbound down the  
8 sidewalk. At Karlov, now circumstances are  
9 changing. We're only a block away -- at Karlov,  
10 we're only a block away from Pulaski Road.

11 Gaffney knows at Pulaski and Karlov  
12 there's a Burger King restaurant. Along with  
13 that, all along Pulaski Road now you're dealing  
14 with a completely different environment. It's  
15 no longer an industrial area late at night  
16 that's deserted; it's a business street.

17 You can see -- and you saw prior to  
18 this in the video of the police vehicles  
19 responding, all of the traffic, the vehicular  
20 traffic that they drove past. There is a lot of  
21 traffic on the street at this time. We don't  
22 see it on the video here at this point, but I'm  
23 assuming there was probably some pedestrian  
24 traffic out there in the area, too, much more so

1 and more likely than at 40th and Kildare.

2           So ideally Gaffney would like to stop  
3 this offender, this forcible felon armed with a  
4 deadly weapon before he gets to a more populated  
5 environment and more people are placed at risk.  
6 So Gaffney turns his police vehicle southbound  
7 onto Karlov and stops in the crosswalk  
8 attempting to block McDonald, thinking maybe  
9 we'll be able to take this guy into custody  
10 somehow, maybe he'll surrender.

11           When Gaffney turns his vehicle  
12 southbound and blocks the crosswalk, McDonald  
13 doesn't surrender, doesn't drop his knife; he  
14 takes the knife and immediately stabs the front  
15 tire -- right front tire of the police vehicle,  
16 attacking the police vehicle and thereby the  
17 police.

18           McElligott's in uniform, Gaffney is  
19 in uniform, the police vehicle is a marked  
20 vehicle. There's no doubt these gentlemen are  
21 police officers. Laquan McDonald doesn't think  
22 he's being mugged by two dudes in a car. These  
23 are police officers who numerous times have  
24 ordered him to stop and drop his knife. Instead

1 of stopping and dropping his knife, he attacks  
2 the police vehicle.

3 Then after flattening the tire, he  
4 tries to walk around the front of the vehicle to  
5 continue on his way. Gaffney moves the vehicle  
6 up a little further to continue to block him.  
7 At this, McDonald takes the knife and now he  
8 stabs the windshield. Doesn't do anything to  
9 the windshield, just puts a little scratch in  
10 the windshield, but, again, he's attacking a  
11 marked police vehicle occupied by a uniformed  
12 police officer. This tells you something about  
13 who the police are dealing with here.

14 He makes -- after stabbing the  
15 windshield, he gets around the front of the  
16 vehicle and continues eastbound down  
17 40th Street. Gaffney gets on the radio and  
18 tells the dispatcher, "This guy just popped our  
19 tire"; meaning, he stabbed the tire.

20 That's when McDonald apparently heard  
21 the sirens of the responding -- the police units  
22 responding to Gaffney and McDonald's call for  
23 help because now he's in the McDonald -- he's  
24 entering the Burger King parking lot and two

1 police vehicles now enter from the other  
2 direction off of Pulaski coming westbound in  
3 response to the officer's call for assistance.

4 Now, instead of walking, McDonald  
5 starts to run because now he's hearing the  
6 sirens, he's seeing more police vehicles, he  
7 realizes he's at risk of being captured at this  
8 point.

9 He runs eastbound through the parking  
10 lot. McElligott's on foot. He's chasing a  
11 17-year-old kid; he ain't keeping up. Gaffney  
12 is in the car with a flat tire. He's reluctant  
13 to drive too aggressively. Doesn't want to do  
14 more damage to the vehicle. So at this point  
15 Walsh and Van Dyke are the first responding unit  
16 to arrive. They take over as the lead pursuit  
17 unit. They are now pursuing Laquan McDonald.

18 Seeing that they're now in a Burger  
19 King parking lot where the Burger King is open,  
20 there's people around, Walsh placed -- as he's  
21 pursuing, he actually gets between McDonald and  
22 the Burger King restaurant to keep him from  
23 going into the restaurant and again putting  
24 civilians at risk. He's already attacked Rudy

1 Barillas. He's attacked a police vehicle. If  
2 he goes into the restaurant, who knows what else  
3 he'll do.

4 McDonald runs past their vehicle out  
5 on Pulaski and turns southbound. Now this is  
6 where we picked this up now. You can see that  
7 this vehicle here is Walsh and Van Dyke. This  
8 is Officer Bacerra and Velez. They're coming  
9 northbound.

10 I don't know, I'm guessing that in  
11 responding to this call, their attention was  
12 more toward 40th Street, and I think they drove  
13 up closer than they would have liked to to the  
14 offender, and that's why, instead of jumping out  
15 and confronting him, they're like, Whoa, we're  
16 too close. So they actually drive past him to  
17 create some separation, and they're in the  
18 process of making a U-turn when the shots are  
19 fired.

20 But, anyway, this is Walsh driving.  
21 Van Dyke's the passenger. You just saw in the  
22 video -- we've all seen it already -- that the  
23 car slows. It's positioned -- this vehicle is  
24 blocking McDonald. The car was paused here

1 positioned between McDonald and Dunkin' Donuts  
2 restaurant here on the other side of the street,  
3 again, to prevent him from heading towards a  
4 business that was occupied by civilians who  
5 would be put at risk if this guy enters the  
6 business.

7 You saw the right front door begin to  
8 open and then it closed. Again, consistent with  
9 the statements of Van Dyke and Walsh.

10 Now, what we're going to see, we're  
11 going to see Van Dyke -- Walsh drive the vehicle  
12 up ahead of McDonald to give them some distance  
13 to exit the vehicle safely before they have to  
14 confront McDonald.

15 But now you should take a really  
16 close look at Laquan McDonald from this point  
17 until the first shot is fired, okay? Shortly  
18 after -- when you start playing the video,  
19 you're going to see him hike up his pants.  
20 You're going to see him motion with the knife  
21 (indicating).

22 I -- not to make fun or make this a  
23 humorous incident, but I refer to it as the  
24 "West Side Story" move, if you're familiar with

1 the movie, where back then gangbangers fought  
2 with clubs and knives, not handguns like they do  
3 now. But you see him whip out the knife. And  
4 it's not because he's whipping the knife to the  
5 ground to surrender. He's whipping the knife  
6 out as if to indicate he's getting -- he knows  
7 there's a battle coming. And his intent is  
8 pretty clear here.

9 And if you take a quick look at the  
10 time that he does that really aggressive and  
11 exaggerated move with his knife, at that exact  
12 moment, you can see the door on the police  
13 vehicle opening. Jason Van Dyke is already  
14 getting out. So he sees that move. And when  
15 these officers are talking about aggressive  
16 moves, keep that in mind.

17 Then as he continues on, you can see  
18 the arm move again a couple more times like this  
19 (indicating). He's not holding the knife at  
20 his -- at his side here, he's not trying to get  
21 it back in his pocket; it's at the ready. And  
22 it's not just hanging, it's moving. It's  
23 moving.

24 And then right before Jason Van Dyke

1 fires his first shot, you can see McDonald  
2 begins to turn to the left. His shoulders  
3 square towards the officers. He's no longer  
4 in -- he's no longer walking southbound or south  
5 westbound, or whatever direction you want to  
6 categorize it; he's now facing directly towards  
7 the officers.

8 And in the video, his arm  
9 begins -- ends up being blocked by his torso,  
10 but you can see the right arm holding that knife  
11 come up in this manner (indicating) as he's  
12 turning, which would point the knife directly at  
13 Walsh and Van Dyke.

14 There was something else I wanted to  
15 say at that point.

16 So at this point now, just before  
17 Jason Van Dyke fires his gun, we've got an  
18 offender who has committed multiple forcible  
19 felonies, some of which were directed directly  
20 against Rudy Barillas in the parking lot.  
21 However you want to categorize his attack on the  
22 police vehicle, he used a deadly weapon to  
23 escape arrest and has, again, indicated that he  
24 is likely to cause death or great bodily harm

1 unless he's apprehended quickly.

2 When he finally turns -- and you can  
3 see, when Walsh and Van Dyke first exit their  
4 vehicle, they both draw their guns right away  
5 because when they saw him in the Burger King  
6 parking lot, they saw the knife in his hand  
7 already. They know he's armed. They know what  
8 has happened before from the radio  
9 transmissions.

10 They know the call that Gaffney and  
11 McElligott originally responded to; they heard  
12 Gaffney's transmission that they're following  
13 this guy with the knife; they heard Gaffney's  
14 transmission that the guy attacked their police  
15 vehicle. So they know what they're dealing with  
16 here.

17 Finally, knowing all of this, seeing  
18 him heading -- walking -- and watch his  
19 movements before Van Dyke fires his shots.  
20 These are not the movements of a subject acting  
21 hesitantly, tentatively, thinking about  
22 surrendering or actually surrendering, dropping  
23 the knife and putting his hands up, don't shoot.  
24 These are the movements of a guy that's getting

1 ready to do battle.

2 And then at the time when -- as I  
3 said, when Van Dyke and Walsh get out of their  
4 vehicle, they both have their guns drawn  
5 immediately, and they bring the weapons up and  
6 point them at Van Dyke -- at McDonald because  
7 they know he's a threat.

8 But even though he's a forcible felon  
9 who used the threat of death or great bodily  
10 harm to commit his forcible felonies, even  
11 though he's escaping by use of a deadly weapon,  
12 even though he's clearly indicated that he's  
13 likely to endanger life unless he's immediately  
14 apprehended, they don't shoot immediately; they  
15 still attempt to use minimum force to place him  
16 under arrest.

17 They get out. The mere presence of  
18 them at the scene, being two officers in uniform  
19 in a marked vehicle, that's considered a form of  
20 force. That's the lowest form of force the  
21 police use, just their presence. Sometimes  
22 that's enough to get people to comply with the  
23 law.

24 Not only that, they're giving him

1 verbal direction. Both of the officers,  
2 Van Dyke and Walsh, are stating repeatedly,  
3 "Drop the knife. Drop the knife."

4 Not only does he not drop the knife,  
5 but he doesn't stop. He doesn't turn around and  
6 walk away from two guys standing there with  
7 handguns; he continues on his route southbound.

8 And then finally -- again, the  
9 officers don't fire at that time even though the  
10 argument could be made that deadly force was  
11 justified at that point. They're still trying  
12 to apprehend him with the -- using the least  
13 amount of force they can.

14 But, finally, when he turns towards  
15 them and begins to raise the knife towards him,  
16 at this point, Van Dyke says this -- in his mind  
17 he's thinking, This guy's attacking me. I can't  
18 wait any longer. I either have to take some  
19 action here to defend myself or he's going to  
20 cut me, he's going to stab me, he's going to  
21 kill me.

22 And that's why Van Dyke said he fired  
23 his gun --

24 Q. Maybe at this point we can go to the

1 Dunkin' Donuts video --

2 A. Well, please play this through and  
3 watch his actions. This all needs to go on the  
4 record.

5 Watch -- from the time the video  
6 starts until the time he falls to the ground,  
7 watch his action and you decide for yourself,  
8 are those the actions of a not-threatening  
9 subject who is just walking down the street or  
10 dropping his knife and surrendering? I don't  
11 believe it is. I believe this is the actions of  
12 a -- of an armed offender who's got a deadly  
13 weapon in his hand and is ready to do harm to  
14 somebody.

15 Q. We're going to now play the video.

16 (VIDEO BEING PLAYED)

17 BY THE WITNESS:

18 A. Just watch. There's the hiking of  
19 the pants. There's the aggressive move with the  
20 knife. Now, the knife continues --

21 BY MR. NEUMER:

22 Q. So we're at 4:41 is where we paused  
23 it. We've been watching for, I believe it was,  
24 six seconds, from 4:35 of the VLC media player

1 to 4:41.

2 MR. MCKAY: Can I just ask you something,  
3 Peter? As we continue the video, could you  
4 watch Mr. McDonald's feet where he gets to the  
5 lane divider, the dividing white lines, and when  
6 he gets there, he then walks straight down that  
7 dividing line. He is not crossing --

8 THE WITNESS: Instead of walking on an  
9 angle --

10 MR. MCKAY: -- the fencing area on the west  
11 side; he is walking down the divider line,  
12 which -- you are asking if the video is  
13 consistent with him closing -- or getting  
14 closure to Walsh and Van Dyke. So, please,  
15 consider that. Thank you.

16 BY MR. NEUMER:

17 Q. So we're going to start the video  
18 again. It's 4:41 on the media player time right  
19 now. Go ahead.

20 (VIDEO BEING PLAYED)

21 BY THE WITNESS:

22 A. Okay. He's down.

23 BY MR. NEUMER:

24 Q. And we've stopped it at 4:48.

1           A.     And one other point I'd like to make  
2 while the video is up here and fresh in our  
3 minds is that this incident has obviously gotten  
4 a lot of media coverage, and there's all kinds  
5 of people weighing in with their opinions over  
6 the last 18 months. And it's incredulous to me  
7 that people continue to refer to Laquan McDonald  
8 as walking away from the officers.

9                     He's not walking away from the  
10 officers. As I said before, the distance is  
11 clearly decreasing. When astronomers see an  
12 asteroid or a meteor heading towards earth and  
13 they finally do their calculations and decide  
14 it's going to miss earth by only a million  
15 miles, they don't say it's moving away from  
16 earth. They always refer to that asteroid or  
17 meteor as coming towards earth but it's not  
18 going to be a direct strike because it's going  
19 to miss us by however many -- whatever the  
20 distance is. They don't say it's moving away  
21 from earth; it's still considered moving  
22 towards.

23                     When the distance between two bodies  
24 or two subjects decreases, they're moving

1 towards each other. They're not -- nobody is  
2 moving away from anybody when the distance  
3 decreases. That's my opinion.

4 I'm sorry, we can go to the Dunkin'  
5 Donuts video.

6 BY MR. BROWN:

7 Q. That's all right. Last quick  
8 statement would you say, though,  
9 Detective March, that the officers did make some  
10 movements towards McDonald?

11 A. I'm sure you're going to get to that.  
12 I know that's one of the allegations about them  
13 moving. Of course the officers were moving  
14 towards McDonald. From the time they heard the  
15 call for assistance from Gaffney and McElligott  
16 they were moving toward McDonald, and their  
17 statements say that.

18 Their job was not to run away from  
19 McDonald; their job was to move toward McDonald  
20 and go and deal with the situation. That's what  
21 we pay our police department for. We don't pay  
22 them to move away from the problem.

23 When Rudy Barillas calls 911 and says  
24 there's a problem, he doesn't expect the police

1 department to move away from the problem; he  
2 expects the police to come and move toward the  
3 problem.

4 So -- we'll get into that I'm sure in  
5 more specifics when you get to that allegation  
6 but --

7 BY MR. NEUMER:

8 Q. Tell you what, why don't we -- to  
9 expedite things, why don't we go through that  
10 allegation now and you'll have an opportunity to  
11 respond. And I'm going to -- Page 2 of the  
12 notification of allegations, Roman numeral VI.

13 It is alleged that the Case  
14 Supplementary Report you submitted on or about  
15 March 15, 2015, the Exhibit 5 CSR, contained the  
16 description of the McDonald shooting as captured  
17 by the in-car camera video recovered from  
18 vehicle 813 Robert but that description failed  
19 to note that Officer Van Dyke and Officer Walsh  
20 moved towards McDonald prior to the shooting.

21 I think that's on Page 19 -- I should  
22 have given you an opportunity -- yes, so it's on  
23 Page 19, fourth paragraph from the bottom.

24 MR. McKAY: What allegation is this?

1 MR. NEUMER: This is Page 2, Roman numeral,  
2 I guess, IV. Sorry.

3 MR. McKAY: I thought you said six.

4 MR. NEUMER: I did. I got my Roman  
5 numerals confused.

6 BY THE WITNESS:

7 A. I have two issues with this  
8 allegation --

9 BY MR. NEUMER:

10 Q. Can I -- for the record, I'm going to  
11 restate it so everything is clean.

12 So it is alleged that the CSR you  
13 submitted on or about March 15, 2015, the  
14 Exhibit 5 CSR contained a description of the  
15 McDonald shooting as captured by the in-car  
16 camera video recovered from Vehicle 813 Robert,  
17 but that description failed to note that  
18 Officer Van Dyke and Officer Walsh moved towards  
19 McDonald prior to the shooting.

20 Detective March, what is your  
21 response to that allegation?

22 A. Well, first of all, the allegation  
23 itself is absolutely false. First of all, I  
24 have -- take issue with its description. It's

1 another misrepresentation of what is stated in  
2 the report. There is no description, there's  
3 not even an attempt to describe the video in the  
4 report.

5 The only -- I bring out one point in  
6 this paragraph about the video, and that is, at  
7 the very end of the report -- well, actually  
8 it's most of that paragraph is basically making  
9 one point, that it establishes -- the video  
10 establishes that McDonald and Van Dyke were  
11 approximately ten feet apart at the time  
12 Van Dyke fired his weapon.

13 That was the only point I was making  
14 in that whole analysis of the video because many  
15 years ago the chief of detectives at the time  
16 issued a directive that whenever possible, we  
17 should -- on police-shooting investigations, we  
18 should attempt, as best we can, to determine how  
19 far away the officer was from the subject when  
20 he fired his handgun.

21 Now, Walsh and Van Dyke, one said 10  
22 to 15 feet; one said, I believe, 12 to 15 feet.  
23 Here we have the video showing they were the  
24 distance of one traffic lane apart when Van Dyke

1 fired his weapon. And if you go out to the  
2 scene, you'll see that traffic lane is  
3 approximately 10 feet wide.

4 And there is no attempt here to  
5 describe all of the actions that are captured in  
6 this video. We have the actions of Van Dyke and  
7 Walsh in their vehicle; we have the actions of  
8 Bacerra and Velez in their police vehicle; we  
9 have the actions of Laquan McDonald; there's  
10 whatever civilian traffic.

11 I never would have attempted to  
12 describe everything that happens in this video,  
13 and any allegation that says I left something  
14 out is an error or a lie. False statement by  
15 omission is a false allegation because I never  
16 attempted to describe what is in this vehicle --

17 Q. But don't you --

18 A. -- I specifically -- I specifically  
19 made a request that the video be permanently  
20 retained by the police department because of the  
21 nature of this case. I specifically made a  
22 request for a copy of the video, which I  
23 received and then subsequently inventoried so  
24 that that video is a permanent copy of the file.

1 So any questions regarding that video can be  
2 addressed by the video and aren't subject to  
3 anybody's interpretation.

4 Q. But isn't that information material  
5 to the very heart of your investigation, the  
6 fact that they -- Officer Van Dyke and  
7 Officer Walsh moved towards McDonald prior to  
8 the shooting?

9 A. Again, my report does state both of  
10 the officers said in their statements that they  
11 were moving towards McDonald from the time they  
12 heard the call for assistance.

13 At first they were moving towards him  
14 in their police vehicle, and then they pursued  
15 him through the parking lot -- through the  
16 Burger King parking lot, they were getting  
17 closer to him. Out on the street, they got  
18 closer to him, and then they decided to go ahead  
19 of him.

20 They were approaching him the entire  
21 time -- the entire duration of this incident.

22 Q. But, I mean, in their --

23 A. And, again, it was their job to  
24 approach him. And any inference that the fact

1 that they took a couple of steps toward McDonald  
2 somehow mitigates what McDonald did or doesn't  
3 justify what the officers did doesn't make any  
4 sense to me.

5 Yes, they took a couple of steps  
6 toward McDonald, but in the grand scheme of  
7 things of what this situation -- what this  
8 incident entailed, it's a very minor fact. And  
9 it's obvious -- you can see it in the video; I'm  
10 not hiding anything.

11 Q. I guess both Walsh and McDonald --  
12 sorry, both Walsh and Van Dyke talk about  
13 backpedaling. And we're going to get into this,  
14 but in light of their statements that they're  
15 backpedaling, it seems that in the video there  
16 seems to be some indication they're moving  
17 toward McDonald. It's that discrepancy --

18 A. They did take a couple of steps  
19 forward, but that doesn't mean, as I said, when  
20 they're out of the frame of the dash cam video,  
21 which you can see is consistent in the Dunkin'  
22 Donuts video, it does look like after that they  
23 did backpedal.

24 Q. And we'll get to the Dunkin' Donuts

1 video in just a moment. I'm now going to move  
2 to Page 2 of Notification of Allegations, Roman  
3 numeral V.

4 It is alleged that the CSR you  
5 submitted on or about March 15, 2015, the  
6 Exhibit 5 CSR contained a description of the  
7 McDonald shooting as captured by the in-car  
8 video recovered from Vehicle 813 Robert. That  
9 description failed to note that Officer Van Dyke  
10 continued to fire at McDonald after McDonald was  
11 on the ground.

12 What is your response to that  
13 allegation?

14 A. Again, that allegation is completely  
15 false for the reasons stated before. Just in  
16 summary, the report does not even attempt to  
17 contain a description of what the video shows,  
18 and, in fact, the report does say that  
19 McDonald -- that Van Dyke continued to fire at  
20 McDonald after McDonald was on the ground  
21 because during Van Dyke's statement, during all  
22 of the officers who saw the -- the witness  
23 officers who saw Van Dyke fire his handgun, they  
24 all state that he continued to -- most of them,

1 I shouldn't say every one, but more than  
2 one -- I know Van Dyke said it, and other  
3 officers said it, too, that he continued to fire  
4 at McDonald while he was on the ground.

5 And my analysis of the video, I said  
6 the video was consistent with the witnesses'  
7 statements. So the report does say that  
8 Van Dyke continued to fire at McDonald once he  
9 was on the ground. So, again, this allegation's  
10 completely false.

11 Q. Page 1 of the Notification of  
12 Allegations, Roman numeral III, it is alleged  
13 the CSR you submitted on or about March 15,  
14 2015, the Exhibit 5 CSR, contained a description  
15 of the McDonald shooting as captured by the  
16 in-car camera video recovered from vehicle  
17 813 Robert. That description failed to note  
18 that McDonald changed the direction in which he  
19 was walking prior to the shooting.

20 What is your response to that  
21 allegation?

22 A. Well, number one, again, the report  
23 does not attempt to describe -- to describe  
24 what's in the video from 813 Robert. So the

1 description that I -- in the report can't fail  
2 to do anything because there is no attempt to  
3 have a description in there.

4 And the fact that he changed  
5 direction, from the time he entered Pulaski  
6 Road, he was changing direction many times. He  
7 walked first somewhat southeast to the center of  
8 Pulaski, then he came back and walked straight  
9 south for a little while, and then he walked  
10 southwest for a little while.

11 And then, finally, just before he  
12 turns towards Van Dyke to attack Van Dyke, you  
13 can see, as Mr. McKay pointed out, instead of  
14 his steps going -- continuing diagonally along  
15 the -- across the traffic lane in a somewhat  
16 southwest direction, all of the sudden his next  
17 step is directly south right along the hashed  
18 lane marker -- lane divider line.

19 So he changed direction a number of  
20 times during just that segment on Pulaski Road.  
21 And, again, the description in the report  
22 doesn't fail to describe that because there's no  
23 attempt in the report to describe the video.  
24 The video is allowed to speak for itself without

1 the description of anyone's interpretation.

2 MR. NEUMER: So the time is 5:34. We're  
3 just going to go off the record for a moment.

4 (WHEREUPON, discussion was  
5 had off the record.)

6 MR. NEUMER: The time is 5:39 p.m. We're  
7 back on the record and all parties have agreed  
8 that we're going to postpone the completion of  
9 this interview until tomorrow. We're going to  
10 reconvene -- end for tonight, reconvene  
11 tomorrow, April 27th, at 1:00 p.m. where we will  
12 conclude the interview of Detective March.

13 Any objections to that plan from  
14 anybody here?

15 MR. MCKAY: No objection. In fact, we want  
16 to continue this statement and comply with the  
17 direct order that Detective March is following.

18 It's through no fault of either party  
19 that we're at this late hour, but our hope is  
20 that we complete this statement tomorrow  
21 afternoon.

22 MR. NEUMER: And the time is 5:40 p.m., and  
23 we will temporarily conclude the proceedings for  
24 today until tomorrow.

1 (WHEREUPON, the interview was adjourned  
2 at 5:50 p.m. until April 27, 2016 at  
3 1:00 p.m.)  
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1 C E R T I F I C A T E O F R E P O R T E R

2

3 I, MICHELLE M. YOHLER, a Certified  
4 Shorthand Reporter within and for the County of  
5 Cook, State of Illinois, do hereby certify:

6 That previous to the commencement of  
7 the examination of the witness, the witness was  
8 duly sworn to testify the whole truth concerning  
9 the matters herein;

10 That the foregoing interview  
11 transcript was reported stenographically by me,  
12 was thereafter reduced to typewriting under my  
13 personal direction and constitutes a true record  
14 of the testimony given and the proceedings had;

15 That the said interview was taken  
16 before me at the time and place specified;

17 That I am not a relative or employee  
18 or attorney or counsel, nor a relative or  
19 employee of such attorney or counsel for any of  
20 the parties hereto, nor interested directly or  
21 indirectly in the outcome of this action.

22

23

24

1 IN WITNESS WHEREOF, I do hereunto set  
2 my hand and affix my seal of office at Chicago,  
3 Illinois, this 3rd day of May, 2016.  
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*Michelle Paoletti Yorlaker*

11 C.S.R. Certificate No. 84-4531.  
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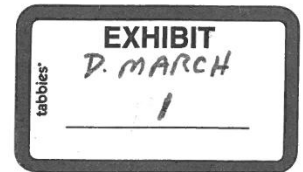
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OFFICE OF THE MEDICAL EXAMINER  
COUNTY OF COOK, ILLINOIS

REPORT OF POSTMORTEM EXAMINATION



NAME MCDONALD, LAQUAN

CASE NO. ME2014-01071

AGE 17y RACE BLACK SEX MALE

DATE OF DEATH OCTOBER 20, 2014

DATE EXAMINED OCTOBER 21, 2014 (8:25am) EXAMINED BY Denika Means, DO

Investigator Daniel Kobel with the City of Chicago Independent Police Review Authority is present for the autopsy.

EXTERNAL EXAMINATION

The body is identified by toe tag. Photographs and radiographs are taken.

When first viewed, the body is clad in a green hospital gown. A tan rubber band encircles the right wrist. Accompanying the body is a black, hooded, zip-up sweatshirt (cut), a black with white lettering sweatshirt, blue jeans, black boxers (cut), two black shoes and two black socks. No jewelry is present. All of the clothing is relinquished to a representative of the Chicago Police Department.

The body is that of a well-developed, well-nourished, black male whose appearance is compatible with the stated age of 17 years. As received, the body weighs 180 pounds and is 72 inches long. There is good preservation in the absence of embalming. The body is warm, rigor mortis is easily broken, and lividity is not apparent.

The black scalp hair is in dreadlocks up to 5 inches long. An average amount of body hair is in a normal male distribution. The irides are brown, the corneae are clear, and there are no petechiae of the bulbar or palpebral surfaces of the conjunctivae. The ears, nose and lips are unremarkable. The teeth are natural and in good condition with absence of the upper left central incisor. The neck and chest are symmetrical, and the abdomen is flat. The external genitalia, anus and perineum are unremarkable. The extremities are well developed and symmetrical. The back is straight.

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**IDENTIFYING MARKS AND SCARS**

A black ink tattoo on the right upper arm reads "Quan". A black ink tattoo on the dorsum of the right hand reads "Good Son". On the dorsum of the left hand is a black ink tattoo that reads "YOLO" and has a pair of dice.

**EVIDENCE OF THERAPY**

An endotracheal tube is in the mouth. Intravascular lines are in the left groin and left antecubital fossa. An intraosseous line is in the left shin. A loosely sutured incision runs from the right midaxillary line to the left lateral back just inferior to the nipple line.

**EVIDENCE OF INJURY**

**I. Multiple Gunshot Wounds:**

There are 16 gunshot wounds, numbered 1 through 16 arbitrarily without regard to sequence or severity.

**1. GUNSHOT WOUND OF THE LEFT SCALP:**

There is a gunshot graze wound of the left parietal scalp centered 1-1/2 inches from the top of the head and 1/2 inch anterior to the superior attachment of the pinna of the left ear. The gaping wound is 1-3/4 inches long and up to 1/4 inch deep, extending to the fascia overlying the skull. The wound has no marginal abrasion, soot, or stippling.

Associated with this wound, there is mild left temporoparietal subscapular hemorrhage. Thin subarachnoid hemorrhage overlies the left temporal and parietal lobes of the brain.

Directionality cannot be determined.

**2. GUNSHOT WOUND OF THE NECK:**

There is a gunshot wound of entrance of the left base of the neck located 11 inches from the top of the head and 2 inches left of anterior midline. The circular wound is 3/16 inch in diameter and has a circumferential dry red-brown marginal abrasion that measures up to 1/4 inch at 12 o'clock, 1/8 inch at

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3 o'clock, 1/4 inch at 6 o'clock, and 3/16 inch at 9 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the left side of the neck, the bullet subsequently perforates the strap muscles of the left side of the neck, the trachea and the scalene muscles of the right side of the neck.

A moderately deformed, copper-jacketed, medium caliber bullet is recovered from the right supraspinatus muscle, at approximately 12 inches from the top of the head and approximately 5 inches right of anterior midline. The bullet is photographed, sealed within an appropriately labeled envelope and submitted to a representative of the Chicago Police Department.

Associated with this wound is hemorrhage and pulpification of the wound track.

The direction is left to right, slightly front to back and slightly downward.

### **3. GUNSHOT WOUND OF THE LEFT CHEST:**

There is a gunshot wound of entrance of the left upper chest located 12-1/4 inches from the top of the head and 5 inches left of anterior midline. The ovoid wound measures 1/2 x 1/2 inch and has a circumferential, dry, red-brown marginal abrasion that measures 1/16 inch at 12 o'clock, 1/8 inch at 3 o'clock, 1/16 inch at 6 o'clock and 1/8 inch at 9 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the left upper chest, the bullet subsequently perforates the left pectoralis muscles, the muscles of the left lateral back, the muscles of the posterior left upper arm and the subcutaneous tissue and skin of the left upper arm.

A gunshot wound of exit of the posterior left upper arm is located 4-3/4 inches from the top of the left shoulder and 3/4 inch lateral to the posterior midline of the left arm. The ovoid wound measures 5/16 x 3/16 inch and has a circumferential brown marginal abrasion that is less than 1/16 inch wide. There is no soot or stippling.

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Associated with this wound is hemorrhage and pulpifaction of the wound track.

The direction is front to back, right to left and downward.

**4. GUNSHOT WOUND OF THE RIGHT CHEST:**

There is a gunshot wound of the right side of the chest located 15-1/8 inches from the top of the head and 1-1/4 inches right of anterior midline. The circular wound is 3/16 inch in diameter and has a circumferential, dry, brown marginal abrasion that measures 1/16 inch at 12 o'clock, 3/16 inch at 3 o'clock, 1/16 inch at 6 o'clock and 1/16 inch at 9 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the right side of the chest, the bullet subsequently perforates the right pectoralis muscles, the anterior portion of the right fourth rib and right fourth intercostal muscle, the right upper pulmonic lobe (x2), the right middle pulmonic lobe and the lateral portion of the right sixth intercostal muscle.

A markedly deformed, copper-jacketed bullet is recovered from the right latissimus dorsi muscle at a point approximately 18 inches from the top of the head and approximately 2 inches posterior to the right midaxillary line.

Associated with this wound is an anterior fracture of the right fourth rib and an approximately 40mL right hemothorax. There is hemorrhage and pulpifaction of the wound track.

The direction is front to back, left to right and slightly downward.

**5. GUNSHOT WOUND OF THE LEFT ELBOW:**

There is a gunshot wound of entrance of the lateral left elbow located 12-3/4 inches from the top of the left shoulder and 1-1/4 inches lateral to the posterior midline of the left arm. The circular wound measures 5/16 of an inch and has a 1/16 inch dark circumferential marginal abrasion. There is no soot or stippling.

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After perforating the skin and subcutaneous tissue of the lateral left elbow, the bullet subsequently perforates the left humerus and the musculature, subcutaneous tissue and skin of the left upper arm.

A gunshot wound of exit of the medial left upper arm is located 11-1/4 inches from the top of the left shoulder and along the medial midline of the left arm. The irregularly-shaped wound is 1/2 x 1/2 inch. A 1/8 inch brown marginal abrasion extends from 1 o'clock to 3 o'clock and a 1/16 inch brown marginal abrasion extends from 11 o'clock to 12 o'clock. There is no soot or stippling.

Associated with this wound is a 3/16 inch dark brown, abraded skin bridge that separates the entrance gunshot wound #5 (superior) from the entrance gunshot wound #10 (inferior). There is a fracture of the distal left humerus as well as hemorrhage and pulpifaction of the wound track.

The direction is left to right, back to front and slightly upward.

#### **6. GUNSHOT WOUND OF THE RIGHT UPPER ARM:**

There is a gunshot wound of entrance of the posterior right upper arm located 6-1/2 inches from the top of the right shoulder and along the posterior midline of the right arm. The circular wound is 3/16 inch in diameter and has a 1/16 inch dry, dark marginal abrasion extending from 1 o'clock to 11 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the posterior right upper arm, the bullet subsequently perforates the musculature of the right upper arm, the right humerus and the musculature, subcutaneous tissue and skin of the medial right upper arm.

There is a shored gunshot wound of exit of the medial right upper arm located 10-3/4 inches from the top of the right shoulder and along the medial midline of the right arm. The irregularly-shaped wound measures 7/16 x 5/16 inch and has a dry, dark circumferential marginal abrasion that measures 1/16 inch at 12 o'clock and 3 o'clock, 1/4 inch at 6 o'clock and 1/16 inch at 9 o'clock. There is no soot or stippling.

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Associated with this wound is an abraded 3/4 inch moist pink skin bridge that separates the entrance gunshot wound #6 (inferior) from the entrance gunshot wound #11 (superior). There is also a fracture of the right humerus and hemorrhage and pulpifaction of the wound track.

The direction is back to front, downward and slightly left to right.

**7. GUNSHOT WOUND OF THE LEFT FOREARM:**

There is a gunshot wound of entrance of the dorsal left forearm located 19 inches from the top of the left shoulder and 1/2 inch medial to the posterior midline of the left arm. The ovoid wound measures 1/4 x 3/16 inch and has a circumferential dry dark marginal abrasion that measures 1/8 inch at 12 o'clock and 1/16 inch at 3, 6, and 9 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the left forearm, the bullet subsequently perforates the left radius and ulna and the musculature, subcutaneous tissue and skin of the medial left forearm.

A gunshot wound of exit of the medial left forearm is located 20-1/2 inches from the top of the left shoulder and 1/2 inch anterior to the medial midline of the left arm. The ovoid wound measures 5/16 x 1/4 inch and has an ellipse-shaped marginal abrasion that measures 1/4 inch at 12 o'clock, 3/16 inch at 3 o'clock and 6 o'clock and 1/8 inch at 9 o'clock. There is no soot or stippling.

Associated with this wound are fractures of the left radius and ulna. There is hemorrhage and pulpifaction of the wound tracks.

The direction is back to front, slightly right to left and slightly downward.

**8. GUNSHOT WOUND OF THE LATERAL RIGHT UPPER LEG:**

There is a gunshot wound of entrance of the lateral right upper leg located 35-9/16 inches from the top of the head and 1-3/4 inches right of the anterior midline of the right leg.

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The circular wound measures 1/4 inch in diameter and has a less than 1/16 inch marginal abrasion extending from 5 o'clock to 6 o'clock. The margin is extensively lacerated and has a circumferential 1/16 inch purple contusion. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the lateral right upper leg, the bullet subsequently perforates the musculature of the right upper leg, the pelvic floor musculature and the musculature of the medial left upper leg.

A moderately deformed, copper-jacketed, medium caliber bullet is recovered from the medial left upper leg at a point approximately 39 inches from the top of the head and approximately 2 inches right of anterior midline of the left leg. The bullet is photographed, sealed within an appropriately labeled envelope and submitted to a representative of the Chicago Police Department.

Associated with this wound is hemorrhage and pulpification of the wound track.

The direction is right to left, downward and slightly front to back.

#### **9. GUNSHOT WOUND OF THE LEFT UPPER BACK:**

There is a gunshot wound of entrance of the left upper back located 11 inches from the top of the head and 4-1/2 inches left of posterior midline. The irregularly-shaped wound measures 9/16 x 5/16 inch and has an irregular, circumferential brown marginal abrasion that measures 1/4 inch at 12 o'clock, 1/16 inch at 3 o'clock, 1/8 inch at 6 o'clock and 3/16 inch at 9 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the left upper back, the bullet subsequently perforates the musculature of the left upper back and the subcutaneous tissue and skin of the left lateral back.

There is a gunshot wound of exit of the left lateral back located 17-1/4 inches from the top of the head and 3-1/2 inches posterior to the left midaxillary line. The irregularly-shaped wound measures 3/8 x 3/16 inch. There is no marginal abrasion, soot or stippling.

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Associated with this wound is hemorrhage and pulpifaction of the wound track.

The direction is right to left and downward with no significant forward or backwards deviation.

**10. GUNSHOT WOUND OF THE LEFT ELBOW:**

There is a gunshot wound of entrance of the lateral left elbow which is located 13-1/16 inch from the top of the left shoulder and 1 inch lateral to the posterior midline of the left arm. The circular wound measures 3/16 inch in diameter and has a circumferential marginal abrasion that measures 1/8 inch at 12 o'clock and 3 o'clock and 1/16 inch at 6 o'clock and 9 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the lateral left elbow, the bullet subsequently perforates the musculature of the lateral left elbow, the left humerus and the musculature, subcutaneous tissue and skin of the medial left elbow.

There is a gunshot wound of exit of the medial left elbow located 14-1/2 inches from the top of the left shoulder and 3/4 inch medial to the posterior midline of the left arm. The irregularly-shaped wound measures 3/16 x 1/8 inch. It has a circumferential marginal abrasion that measures 1/4 inch at 12 o'clock, 3/16 inch at 3 o'clock, less than 1/16 inch at 6 o'clock and 3/16 inch at 9 o'clock. There is no soot or stippling.

Associated with this wound (as mentioned above) is a 3/16 inch dark brown, abraded skin bridge that separates the entrance gunshot wound #5 (superior) from the entrance gunshot wound #10 (inferior). There are fractures of the left humerus and ulna as well as hemorrhage and pulpifaction of the wound track.

The direction is left to right and downward with no significant forward or backward deviation.

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**11. GUNSHOT WOUND OF THE POSTERIOR RIGHT UPPER ARM:**

There is a gunshot wound of entrance of the posterior right upper arm located 5-3/4 inches from the top of the right shoulder and along the posterior midline of the right arm. The circular wound is 1/8 inch in diameter and has a 1/16 inch dry brown marginal abrasion extending from 7 o'clock to 2 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the posterior right upper arm, the bullet subsequently perforates the musculature of the posterior right upper arm and the musculature, subcutaneous tissue and skin of the right upper back.

There is a gunshot wound of exit of the right upper back located 15-1/2 inches from the top of the head and 2 inches posterior to the right midaxillary line. The irregularly-shaped wound measures 3/8 x 1/8 inch and has no marginal abrasion, soot or stippling.

Associated with this wound (as mentioned above) is a charred 3/4 inch moist pink skin bridge that separates the entrance gunshot wound #6 (inferior) from the entrance gunshot wound #11 (superior). There is hemorrhage and pulpifaction of the wound track.

The direction is right to left, downward and slightly front to back.

**12. GUNSHOT WOUND OF THE RIGHT ARM:**

There is a gunshot wound of entrance of the dorsal right forearm (superior) located 15-1/2 inches from the top of the right shoulder and 3/4 inch lateral to the posterior midline of the right arm. The ovoid-shaped wound measures 5/16 x 1/4 inch and has a dry, dark brown, circumferential marginal abrasion that measures 1/8 inch at 12 o'clock, 3/16 inch at 3 o'clock, 1/8 inch at 6 o'clock and 1/16 inch at 9 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the posterior right forearm, the bullet subsequently penetrates the musculature of the right upper arm.

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A moderately deformed, copper-jacketed, medium caliber bullet is recovered from the anterior musculature of the right upper arm approximately 10 inches from the top of the right shoulder and approximately midline of the right upper arm. The bullet is photographed, sealed within an appropriately labeled envelope and submitted to a representative of the Chicago Police Department.

Associated with this wound is hemorrhage and pulpifaction of the wound track.

The direction is back to front and upward with no significant lateral deviation.

### **13. GUNSHOT WOUND OF THE RIGHT FOREARM:**

There is a gunshot wound of entrance of the dorsal right forearm (inferior) located 19-1/2 inches from the top of the right shoulder and along the posterior midline of the right arm. The ovoid-shaped wound measures 1/2 x 1/8 inch and has an irregular, dry, circumferential marginal abrasion that measures 1/8 inch at 12 o'clock, 1/16 inch at 3 o'clock, 1 inch at 6 o'clock, and 1/8 inch at 9 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the dorsum of the right forearm, the bullet penetrates the musculature of the right forearm.

A markedly deformed, large fragment of copper-jacketed bullet is recovered from the right forearm at approximately 17 inches from the top of the right shoulder and approximately posterior midline of the right arm. The projectile is photographed, sealed within an appropriately labeled envelope and submitted to a representative of the Chicago Police Department.

Associated with this wound are fractures of the right radius and ulna. There is hemorrhage and pulpifaction of the wound track.

The direction is upward and slightly back to front with no significant lateral deviation.

### **14. GUNSHOT WOUND OF THE RIGHT HAND:**

There is a gunshot wound of entrance of the dorsum of the right hand located 24 inches from the top of the right shoulder and

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1/2 inch posterior to the lateral midline of the right arm. The slit-like wound measures 3/16 inch and has a moist red marginal abrasion from 3 o'clock to 11 o'clock that measures 5/16 of an inch at 3 o'clock, 1/4 inch at 6 o'clock, and 5/16 of an inch at 9 o'clock. There is a thin, circumferential rim of charred skin. Numerous irregular, dry, dark brown abrasions and apparent pseudo-stippling extend along the 5 o'clock to 11 o'clock margin up to 1 inch at 5 o'clock, 1-3/4 inch at 6 o'clock, 1-1/2 inch at 9 o'clock, and 1/2 at 11 o'clock. No definitive gunpowder residue is identified.

After perforating the skin and subcutaneous tissue of the dorsum of the right hand, the bullet penetrates the musculature of the right hand.

Two fragments of markedly deformed, copper-jacketed projectile are recovered from the dorsum of the right hand at a point approximately 23-1/2 inches from the top of the right shoulder and 1/4 inch posterior to the lateral midline of the right arm. The projectile fragments are photographed, sealed within an appropriately labeled envelope and submitted to a representative of the Chicago Police Department.

Associated with this wound is hemorrhage and pulpifaction of the wound track.

The direction is slightly left to right and slightly upward with no significant forward or backward deviation.

**15. GUNSHOT WOUND OF THE RIGHT LOWER BACK:**

There is a gunshot wound of entrance of the right lower back located 28 inches from the top of the head and 1-7/8 inches right of posterior midline. The 3/16 x 1/8 inch ovoid wound has a circumferential, moist, pink marginal abrasion that measures 1/16 inch at 12 o'clock, 1/8 inch at 3 o'clock, 1/16 inch at 6 o'clock and 1/16 inch at 9 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the right lower back, the bullet subsequently perforates the sacrum, the abdominal cavity and the musculature of the left side of the abdomen.

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A moderately deformed, copper-jacketed, medium caliber bullet is recovered from the soft tissue of the left abdominal wall approximately 25 inches from the top of the head and approximately 2 inches left of anterior midline. The bullet is photographed, sealed within an appropriately labeled envelope and submitted to a representative of the Chicago Police Department.

Associated with this wound is a fracture of the sacrum as well as hemorrhage and pulpifaction of the wound track.

The direction is back to front, right to left and upward.

**16. GUNSHOT WOUND OF THE RIGHT UPPER LEG:**

There is a gunshot wound of entrance of the medial right upper leg located 42-1/2 inches from the top of the head and 1/2 inch posterior to the medial midline of the right leg. The ovoid wound measures 1/4 x 3/16 inch and has a dry red-brown marginal abrasion that extends from 7 o'clock to 3 o'clock. The abrasion measures 1/16 inch from 7 o'clock to 9 o'clock and less than 1/16 inch from 9 o'clock to 3 o'clock. There is no soot or stippling.

After perforating the skin and subcutaneous tissue of the medial right upper leg, the bullet subsequently perforates the musculature of the right upper leg and the subcutaneous tissue and skin of the posterior right upper leg.

There is a gunshot wound of exit of the posterior right upper leg located 41-3/8 inches from the top of the head and along the posterior midline of the right leg. The irregularly-shaped wound measures 3/8 x 1/4 inch and has a 3/8 x 1/4 inch brown abrasion that extends along the 12 o'clock to 2 o'clock margin. There is no soot or stippling.

Associated with this wound is hemorrhage and pulpifaction of the wound track..

The direction is left to right and front to back with no significant vertical deviation.

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**II. OTHER INJURIES:**

There are clusters of dry red-brown abrasions on the right shoulder, right side of the chest and dorsum of the right wrist and hand. Scattered larger red-brown abrasions are on the abdomen.

**III. OTHER ITEMS RECOVERED:**

Tiny, white metal fragments of apparent projectile are recovered from between the maxillary teeth, the right upper arm and the decedent's clothing. These fragments are photographed, sealed within appropriately labeled envelopes and submitted to a representative of the Chicago Police Department.

These injuries, having been once described, will not be repeated.

**EVIDENCE SUBMITTED**

The following items are collected, sealed within appropriately labeled containers and submitted to a representative of the Chicago Police Department:

- Clothing
- Blood standard
- Projectiles

**INTERNAL EXAMINATION**

**Body Cavities:** See Evidence of Injury. The thoracic and abdominal organs are in their normal anatomic positions. There are no adhesions.

**Head:** See Evidence of Injury. The skull is unremarkable. The dura and dural sinuses are unremarkable. The leptomeninges are thin and delicate. The cerebral hemispheres are symmetrical with an unremarkable gyral pattern. The cranial nerves and blood vessels are unremarkable. Sections through the cerebral hemispheres, brainstem and cerebellum are unremarkable. There are no hemorrhages of the deep white matter or the basal ganglia. The cerebral ventricles contain no blood. The brain weighs 1325 grams. The spinal cord as viewed from the cranial cavity is unremarkable.

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**Neck:** See Evidence of Injury. The hyoid bone is intact.

**Cardiovascular System:** The intimal surface of the abdominal aorta is free of significant atherosclerosis. The aorta and its major branches and the great veins are normally distributed. The pulmonary arteries contain no thromboemboli. The pericardium, epicardium and endocardium are smooth, glistening and unremarkable. The foramen ovale is closed. The coronary arterial system is normally formed and free of significant atherosclerosis. The atrial and ventricular septa are intact. The cardiac valves are unremarkable. The myocardium is dark red-brown and firm and there are no focal abnormalities. The heart weighs 360 grams.

**Respiratory System:** See Evidence of Injury. The oropharynx is unobstructed. The laryngeal mucosa is pink, smooth, and without petechiae. The pleural surfaces are smooth and glistening. The major bronchi are unremarkable. Sectioning of the lungs discloses a dark red, moderately congested parenchyma.

**Hepatobiliary System:** The liver is covered by a smooth glistening capsule. The parenchyma is dark red-brown and moderately congested. The liver weighs 1062 grams. The gallbladder contains approximately 10 mL of dark green-brown bile with no calculi.

**Gastrointestinal System:** The esophageal mucosa is gray, smooth, and unremarkable. The stomach contains approximately 20 mL of blood. There are no tablets or capsules. The gastric mucosa has normal rugal folds and is unremarkable. The small and large intestines are externally unremarkable. The appendix is present.

**Genitourinary System:** The left kidney is absent. The capsule of the right kidney strips with ease to reveal a smooth and slightly lobulated surface. The cortex is of normal thickness with well-demarcated corticomedullary junctions. The calyx, pelvis and ureter is unremarkable. The urinary bladder contains approximately 200 mL of clear yellow urine. The mucosa is gray, smooth, and unremarkable. The prostate gland is unremarkable externally.

**Endocrine System:** The thyroid and adrenal glands are unremarkable externally and upon sectioning.

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**Lymphoreticular System:** The spleen is covered by a smooth, blue-gray intact capsule. The parenchyma is dark red and firm. The cervical, hilar, and peritoneal lymph nodes are unremarkable.

**Musculoskeletal System:** See **Evidence of Injury**. The clavicles, sternum and pelvis have no fractures.

**FINDINGS**

- I. Gunshot wound of the left scalp (graze wound):
- A. Location: Left parietal scalp.
  - B. Injuries: Mild subscalpular hemorrhage and thin subarachnoid hemorrhage.
  - C. Direction: Indeterminate.
  - D. Range of fire: Indeterminate (no soot or stippling on skin).
- II. Gunshot wound of the neck:
- A. Entrance: Left base of the neck.
  - B. Path: Perforations of neck musculature and trachea.
  - C. Recovery: Medium caliber bullet recovered from the right supraspinatus muscle.
  - D. Direction: Left to right, slightly front to back and slightly downward.
  - E. Range of fire: Indeterminate (no soot or stippling on skin).
- III. Gunshot wound of the left chest:
- A. Entrance: Left upper chest.
  - B. Path: Perforations of the musculature of the left chest, left lateral back and left upper arm.
  - C. Exit: Posterior left upper arm.
  - D. Direction: Front to back, right to left and downward.
  - E. Range of fire: Indeterminate (no soot or stippling on skin).

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IV. Gunshot wound of the right chest:

- A. Entrance: Right side of the chest.
- B. Path: Perforations of the musculature of the right chest, the right fourth rib and right fourth intercostal muscle, the right lung and the right sixth intercostal muscle.
- C. Recovery: Markedly deformed bullet fragment recovered from the right latissimus dorsi muscle.
- D. Direction: Front to back, left to right and slightly downward.
- E. Range of fire: Indeterminate (no soot or stippling on the skin).

V. Gunshot wound of the left elbow:

- A. Entrance: Lateral left elbow.
- B. Path: Perforations of the musculature of the left upper arm and the left humerus.
- C. Exit: Medial left upper arm.
- D. Direction: Left to right, back to front and slightly upward.
- E. Range of fire: Indeterminate (no soot or stippling on the skin).

VI. Gunshot wound of the right upper arm:

- A. Entrance: Posterior right upper arm.
- B. Path: Perforations of the musculature of the right upper arm and the right humerus.
- C. Exit: Medial right upper arm.
- D. Direction: Back to front, downward and slightly left to right.
- E. Range of fire: Indeterminate (no soot or stippling on the skin).

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VII. Gunshot wound of the left forearm:

- A. Entrance: Dorsal left forearm.
- B. Path: Perforations of the musculature of the left forearm, the left radius and the left ulna.
- C. Exit: Medial left forearm.
- D. Direction: Back to front, slightly right to left and slightly downward.
- E. Range of fire: Indeterminate (no soot or stippling on the skin).

VIII. Gunshot wound of the lateral right upper leg:

- A. Entrance: Lateral right upper leg.
- B. Path: Perforations of the musculature of the right upper leg, the pelvic floor and the medial left upper leg.
- C. Recovery: Medium caliber bullet recovered from the medial left upper leg.
- D. Directions: Right to left, downward and slightly front to back.
- E. Range of fire: Indeterminate (no soot or stippling on the skin).

IX. Gunshot wound of the left upper back:

- A. Entrance: Left upper back.
- B. Path: Perforations of the musculature of the left back.
- C. Exit: Left lateral back.
- D. Direction: Right to left and downward with no significant deviation forwards or backwards.
- E. Range of fire: Indeterminate (no soot or stippling on the skin).

X. Gunshot wound of the left elbow:

- A. Entrance: Lateral left elbow.
- B. Path: Perforations of the musculature of the left elbow, the left humerus and the left ulna.
- C. Exit: Medial left elbow.
- D. Direction: Left to right and downward with no significant forward or backward deviation.
- E. Range of fire: Indeterminate (no soot or stippling on the skin).

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XI. Gunshot wound of the right upper arm:

- A. Entrance: Posterior right upper arm.
- B. Path: Perforations of the musculature of the right upper arm and right upper back.
- C. Exit: Right upper back.
- D. Direction: Right to left, downward and slightly front to back.
- E. Range of fire: Indeterminate (no soot or stippling on the skin).

XII. Gunshot wound of the right arm:

- A. Entrance: Dorsal right forearm.
- B. Path: Perforation of the musculature of the right upper arm.
- C. Recovery: Medium caliber bullet recovered from the musculature of the anterior right upper arm.
- D. Direction: Back to front and upward with no significant lateral deviation.
- E. Range of fire: Indeterminate (no soot or stippling on the skin).

XIII. Gunshot wound of the right forearm:

- A. Entrance: Dorsal right forearm.
- B. Path: Perforations of the musculature of the right forearm.
- C. Recovery: Large fragment of projectile recovered from the right forearm.
- D. Direction: Upward and slightly back to front with no significant lateral deviation.
- E. Range of fire: Indeterminate (no soot or stippling on the skin).

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- XIV. Gunshot wound of the right hand:
- A. Entrance: Dorsum of the right hand.
  - B. Path: Perforations of the musculature of the right hand.
  - C. Recovery: Fragments of projectile recovered from the dorsum of the right hand.
  - D. Direction: Slightly left to right and slightly upward with no significant deviation forward or backwards.
  - E. Range of fire: Indeterminate (no soot or stippling on the skin on the hand).
- XV. Gunshot wound of the lower back:
- A. Entrance: Right lower back.
  - B. Path: Perforations of the sacrum and left abdominal wall musculature.
  - C. Recovery: Medium caliber bullet recovered from the soft tissue of the left abdominal wall.
  - D. Direction: Back to front, right to left and upward.
  - E. Range of fire: Indeterminate (no soot or stippling on the skin).
- XVI. Gunshot wound of the right upper leg:
- A. Entrance: Medial right upper leg.
  - B. Path: Perforation of the musculature of the right upper leg.
  - C. Exit: Posterior right upper leg.
  - D. Direction: Left to right and front to back without significant vertical deviation.
  - E. Range of fire: Indeterminate (no soot or stippling on the skin).
- XVII. Abrasions of the right shoulder, chest, abdomen hand and wrist.
- XVIII. Small, probable projectile fragments recovered from the mouth, skin of the right upper arm and the clothing.
- XIX. Post-mortem toxicology negative for benzoylecgonine, ethanol and opiates.
- XX. Police-involved shooting.

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OPINION

Based on the case history and autopsy findings, it is my opinion that LAQUAN MCDONALD, a 17-year-old black male, died as the result of multiple gunshot wounds.

MANNER OF DEATH: Homicide

*Denika Means*

---

Denika Means, DO  
Assistant Medical Examiner

1/15/2015

WTT:jm  
J: -24  
D: 10/23/14@17:26  
T: 10/24/14@11:56

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OFFICE OF THE MEDICAL EXAMINER  
COUNTY OF COOK, ILLINOIS  
TOXICOLOGY REPORT

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**FINAL**

M.E. Case: ME2014-01071  
Deceased Name: McDonald, Laquan  
Autopsy Date: 10/21/2014  
Report Date: 12/11/2014  
Pathologist: MEANS, DENIKA

Tox Case: 14-3614  
Gender: Male  
Race: Black  
Age: 17

**Confirmed Positives**

| <u>Sample #</u> | <u>Analyte</u> | <u>Sample Type</u> | <u>Methodology</u> | <u>Result</u> | <u>Foot<br/>note</u> |
|-----------------|----------------|--------------------|--------------------|---------------|----------------------|
|-----------------|----------------|--------------------|--------------------|---------------|----------------------|

**Screen**

| <u>Sample #</u> | <u>Analyte</u>  | <u>Sample Type</u> | <u>Methodology</u> | <u>Result</u> |
|-----------------|-----------------|--------------------|--------------------|---------------|
| 01-01           | BENZOYLECGONINE | Hospital Specimens | ELISA              | Negative      |
| 01-01           | ETHANOL         | Hospital Specimens | GC                 | Negative      |
| 01-01           | OPIATES         | Hospital Specimens | ELISA              | Negative      |

**Comments**



KOIN, PETER

Toxicologist

Date reviewed: 12/11/2014

**Footnotes**

**Test Panels**

Opiate ELISA Screen includes: Morphine, Codeine

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COUNTY OF COOK, ILLINOIS  
TOXICOLOGY REPORT

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**AMENDED**

M.E. Case: ME2014-01071  
Deceased Name: McDonald, Laquan  
Autopsy Date: 10/21/2014  
Report Date: 03/31/2015  
Pathologist: MEANS, DENIKA

Tox Case: 14-3614  
Gender: Male  
Race: Black  
Age: 17

**Confirmed Positives**

| <u>Sample #</u> | <u>Analyte</u> | <u>Sample Type</u> | <u>Methodology</u> | <u>Result</u> | <u>Foot<br/>note</u> |
|-----------------|----------------|--------------------|--------------------|---------------|----------------------|
| 01-01           | ETHANOL        | Hospital Specimens | GC_GC              | Negative      | (1)                  |

**Screen**

| <u>Sample #</u> | <u>Analyte</u>  | <u>Sample Type</u> | <u>Methodology</u> | <u>Result</u> |
|-----------------|-----------------|--------------------|--------------------|---------------|
| 01-01           | BENZOYLECGONINE | Hospital Specimens | ELISA              | Negative      |
| 01-01           | ETHANOL         | Hospital Specimens | GC                 | Negative      |
| 01-01           | OPIATES         | Hospital Specimens | ELISA              | Negative      |
| 01-05           | PHENCYCLIDINE   | URINE              | ELISA              | Positive      |
| 01-10           | PHENCYCLIDINE   | CAVITY BLOOD       | ELISA              | Positive      |
| 01-01           | PHENCYCLIDINE   | Hospital Specimens | ELISA              | Positive      |

**Subcontracted Tests**

Test Name

|                       |                               |
|-----------------------|-------------------------------|
| Phencyclidine NMS     | See NMS Report for Result     |
| Risperidone NMS       | See NMS Report for Result     |
| Valproic Acid LabCorp | See LabCorp Report for Result |

**Comments**



AMENDED BY: WAGNER, MICHAEL

Toxicologist

Date reviewed: 03/31/2015

**Footnotes**

1 Quantitation by GC, Confirmation by GC

**Test Panels**

Opiate ELISA Screen includes: Morphine, Codeine

HX475653



# NMS Labs

CONFIDENTIAL

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Robert A. Middleberg, PhD, F-ABFT, DABCC-TC, Laboratory Director

## Toxicology Report

Report Issued 03/18/2015 13:00

To: 10075

Cook County Medical Examiner  
Attn: Kathleen Mittel  
2121 West Harrison Street  
Chicago, IL 60612

Patient Name MCDONALD, LAQUAN  
Patient ID ME2014-01071 14-3614  
Chain 11851876  
Age Not Given DOB Not Given  
Gender Not Given  
Workorder 15059306

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### Positive Findings:

| <u>Compound</u> | <u>Result</u> | <u>Units</u> | <u>Matrix Source</u> |
|-----------------|---------------|--------------|----------------------|
| Phencyclidine   | 56            | ng/mL        | 001 - Cavity Blood   |

See Detailed Findings section for additional information

### Testing Requested:

| <u>Analysis Code</u> | <u>Description</u>                |
|----------------------|-----------------------------------|
| 4105B                | Risperidone and Metabolite, Blood |
| 8761B                | Phencyclidine, Blood              |

### Specimens Received:

| <u>ID</u> | <u>Tube/Container</u> | <u>Volume/<br/>Mass</u> | <u>Collection<br/>Date/Time</u> | <u>Matrix Source</u> | <u>Miscellaneous<br/>Information</u> |
|-----------|-----------------------|-------------------------|---------------------------------|----------------------|--------------------------------------|
| 001       | Red Top Tube          | 5.5 mL                  | Not Given                       | Cavity Blood         |                                      |

All sample volumes/weights are approximations.

Specimens received on 03/02/2015.

v.14

HX475653



CONFIDENTIAL

Workorder 15059306  
Chain 11851876  
Patient ID ME2014-01071 14-3614

Page 2 of 2

**Detailed Findings:**

| Analysis and Comments | Result | Units | Rpt. Limit | Specimen Source    | Analysis By |
|-----------------------|--------|-------|------------|--------------------|-------------|
| Phencyclidine         | 56     | ng/mL | 5.0        | 001 - Cavity Blood | GC/MS       |

Other than the above findings, examination of the specimen(s) submitted did not reveal any positive findings of toxicological significance by procedures outlined in the accompanying Analysis Summary.

**Reference Comments:****1. Phencyclidine (Angel Dust; PCP; Sperm) - Cavity Blood:**

Phencyclidine (PCP) is a DEA Schedule II controlled dangerous hallucinogenic drug. There exists a dearth of pharmacokinetic data of PCP usage in humans; however it has been reported that blood levels of phencyclidine ranged from 7 - 240 ng/mL (mean, 75 ng/mL) in individuals stopped for driving under the influence of drugs or for being intoxicated in public.

Ataxia, agitation, combativeness, seizures, spasticity, coma and respiratory depression are associated with phencyclidine concentrations ranging from 90 - 220 ng/mL plasma.

The physiological effects of PCP can be classified as low or high dose. In low doses, PCP can elicit visual disturbances, drowsiness, agitation, hallucinations, aggressiveness, increased pulse rate and blood pressure, bronchospasm, increased respiratory rate and hyperthermia. In high doses, PCP can elicit convulsions, opisthotonos, coma, arrhythmias, decreased blood pressure and respirations and rhabdomyolysis.

There appears to be no relation between plasma levels of phencyclidine and degree of intoxication. Even so, death has been reported following the use of only 120 mg of phencyclidine. Blood concentrations in phencyclidine-related fatalities have been reported to range from 300 - 25000 ng/mL (mean, 5000 ng/mL).

Unless alternate arrangements are made by you, the remainder of the submitted specimens will be discarded one (1) year from the date of this report; and generated data will be discarded five (5) years from the date the analyses were performed.

**Analysis Summary and Reporting Limits:**

All of the following tests were performed for this case. For each test, the compounds listed were included in the scope. The Reporting Limit listed for each compound represents the lowest concentration of the compound that will be reported as being positive. If the compound is listed as None Detected, it is not present above the Reporting Limit. Please refer to the Positive Findings section of the report for those compounds that were identified as being present.

**Acocde 4105B - Risperidone and Metabolite, Blood - Cavity Blood**

-Analysis by High Performance Liquid Chromatography/  
Tandem Mass Spectrometry (LC-MS/MS) for:

| Compound             | Rpt. Limit | Compound                                     | Rpt. Limit |
|----------------------|------------|--|------------|
| 9-Hydroxyrisperidone | 1.0 ng/mL  | Risperidone and 9-Hydroxyrisperidone - Total | N/A        |
| Risperidone          | 1.0 ng/mL  |  |            |

**Acocde 8761B - Phencyclidine, Blood - Cavity Blood**

-Analysis by Gas Chromatography/Mass Spectrometry  
(GC/MS) for:

| Compound      | Rpt. Limit | Compound | Rpt. Limit |
|---------------|------------|----------|------------|
| Phencyclidine | 5.0 ng/mL  |          |            |

v.14

HX475653



Patient Report

Specimen ID: 057-139-1180-0  
Control ID: B0019005042

Acct #: 12122732

Phone: (312) 997-4477

Rte: 16

MCDONALD, LAQUAN

COOK COUNTY MEDICAL EXAMINER  
2121 W HARRISON  
CHICAGO IL 60612



Patient Details

DOB: 09/25/1997  
Age(y/m/d): 017/05/01  
Gender: M SSN:  
Patient ID: ME2014-01071

Specimen Details

Date collected: 02/26/2015 1119 Local  
Date entered: 02/26/2015  
Date reported: 02/27/2015 0903 ET

Physician Details

Ordering: D. MEANS  
Referring:  
ID:  
NPI:

General Comments & Additional Information  
Clinical Info: TOX-14-3614 1ML OF CAVITY  
Clinical Info: BLOOD SPUN DOWN

Alternate Control Number: B0019005042

Alternate Patient ID: ME2014-01071

Ordered Items

Valproic Acid (Depakote)(R)/S

| TESTS                         | RESULT | FLAG | UNITS | REFERENCE INTERVAL | LAB |
|-------------------------------|--------|------|-------|--------------------|-----|
| Valproic Acid (Depakote)(R)/S | <4     | Low  | ug/mL | 50 - 100           | 01  |

\*\*Verified by repeat analysis\*\*

Detection Limit = 4

<4 indicates None Detected

Toxicity may occur at levels of 100-500. Measurements  
of free unbound valproic acid may improve the assess-  
ment of clinical response.

01 CB LabCorp Dublin

6370 Wilcox Road, Dublin, OH 43016-1269

Nathan Scanzillo, PhD

For inquiries, the physician may contact Branch: 800-597-8026 Lab: 800-282-7300

Date Issued: 02/27/15 0903 ET

FINAL REPORT

Page 1 of 1

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HX475653



(720 ILCS 5/7-7) (from Ch. 38, par. 7-7)

Sec. 7-7. Private person's use of force in resisting arrest. A person is not authorized to use force to resist an arrest which he knows is being made either by a peace officer or by a private person summoned and directed by a peace officer to make the arrest, even if he believes that the arrest is unlawful and the arrest in fact is unlawful.

(Source: P.A. 86-1475.)



(720 ILCS 5/7-5) (from Ch. 38, par. 7-5)

Sec. 7-5. Peace officer's use of force in making arrest. (a) A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that:

(1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and

(2) The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay.

(b) A peace officer making an arrest pursuant to an invalid warrant is justified in the use of any force which he would be justified in using if the warrant were valid, unless he knows that the warrant is invalid.

(Source: P.A. 84-1426.)



(720 ILCS 5/2-8) (from Ch. 38, par. 2-8)

Sec. 2-8. "Forcible felony". "Forcible felony" means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnaping, kidnaping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual.  
(Source: P.A. 88-277; 89-428, eff. 12-13-95; 89-462, eff. 5-29-96.)

**THE USE OF FORCE MODEL** ✓

|                 |                        |                 |             |
|-----------------|------------------------|-----------------|-------------|
|                 |                        |                 |             |
| ISSUE DATE:     | 16 May 2012            | EFFECTIVE DATE: | 16 May 2012 |
| RESCINDS:       | 15 August 2003 Version |                 |             |
| INDEX CATEGORY: | Field Operations       |                 |             |

**I. PURPOSE**

This directive:

- A. explains the Use of Force Model.
- B. includes a graphic representation of the Use of Force Model.

**II. DEPARTMENT POLICY**

The Department utilizes a Use of Force Model to provide guidance on the appropriate amount of force to be used to effect a lawful purpose. The Use of Force Model employs the progressive and reasonable escalation and de-escalation of member-applied force in proportional response to the actions and level of resistance offered by a subject. Such response may progress from the member's actual presence at the scene to the application of deadly force.

- A. The primary objective of the use of force is to ensure control of a subject with the reasonable force necessary based on the totality of the circumstances.
- B. Whenever reasonable, members will exercise persuasion, advice, and warning prior to the use of physical force.
- C. When force is applied, a member will escalate or de-escalate to the amount of force which is reasonably necessary to overcome the subject's resistance and to gain control.
  - 1. Members are not required to start at the lowest levels of the Use of Force Model; they will select the appropriate level of force based on the subject's actions.
  - 2. Members will modify their level of force in relation to the amount of resistance offered by the subject.
    - a. As the subject offers less resistance, the member will lower the amount or type of force used.
    - b. As the subject increases resistance, the member may increase the amount or type of force used.

**III. USE OF FORCE MODEL**

- A. The Use of Force Model is a graphic representation of the guidelines for the appropriate use of force in relation to the actions of a subject.
- B. The Use of Force Model utilized by the Chicago Police Department is pictured in Illustration No. 1.
- C. The Use of Force Model is a guideline that cannot account for all factors constituting the "totality of circumstances" by which a specific use of force is evaluated. The Model is to be used only in conjunction with the Department directives and training regarding the use of force.

**Illustration No. 1**



# USE OF FORCE MODEL

## CHICAGO POLICE DEPARTMENT

|   |   |   |                                     |  |  |  |  |                                 |                            |  |
|---|---|---|-------------------------------------|--|--|--|--|---------------------------------|----------------------------|--|
| Assailant   | Actions will likely cause death or serious physical injury                                | Subject's Actions: Probable Control Difficulty / Danger | Probable Ineffective Control        |  |  |  |  |                                 | Probable Excessive Control |  |
|   | Actions will likely cause physical injury   |   |                                     |  |  |  |  |                                 |                            |  |
|   | Actions are aggressively offensive without weapons  |   |                                     |  |  |  |  |                                 |                            |  |
| Resister  | ACTIVE*<br>Movement to avoid physical control<br>Variable Dynamics                        |   | Probable Ineffective Control        |  |  |  |  |                                 |                            |  |
|   | PASSIVE<br>Non-movement in response to verbal and other direction<br>Variable Positioning |   |                                     |  |  |  |  |                                 |                            |  |
| Cooperative Subject   | Subject(s) cooperative, only in response to direction<br>Variable Risk                    |   | Probable Ineffective Control        |  |  |  |  |                                 |                            |  |
|   | Subject(s) cooperative without direction<br>Variable Distance                             |   |                                     |  |  |  |  |                                 |                            |  |
| Officer's Reaction: Probable Reversibility / Control / Tissue Damage                        |   |   |                                     |  |  |  |  |                                 |                            |  |
| Social Control: Presence of Law Enforcement Representative                                  |   |   |                                     |  |  |  |  |                                 |                            |  |
| Used Alone  |   |   | Used with means of physical control |  |  |  |  |                                 |                            |  |
| Verbal Control: Persuasion / Advice / Warning   |   |   |                                     |  |  |  |  |                                 |                            |  |
| Used Alone  |   |   | Used with means of physical control |  |  |  |  |                                 |                            |  |
| Control Modes without Weapons   |   |   |                                     |  |  |  |  | Firearms and Other Lethal Force |                            |  |
| Holding   |   |   |                                     |  |  |  |  |                                 |                            |  |
| Pain Compliance/ Neuro Muscular   |   |   |                                     |  |  |  |  |                                 |                            |  |
| Stunning  |   |   |                                     |  |  |  |  |                                 |                            |  |
| Diffused pressure striking  |   |   |                                     |  |  |  |  |                                 |                            |  |
| Direct Mechanical   |   |   |                                     |  |  |  |  |                                 |                            |  |
| Direct body mechanics against body structure  |   |   |                                     |  |  |  |  |                                 |                            |  |
| Control Modes with Weapons  |   |   |                                     |  |  |  |  |                                 |                            |  |
| Control Instruments   |   |   |                                     |  |  |  |  |                                 |                            |  |
| Impact Weapons  |   |   |                                     |  |  |  |  |                                 |                            |  |
| Impact Munitions  |   |   |                                     |  |  |  |  |                                 |                            |  |
| OC Spray/Chemical Weapons (Individuals not part of a group or crowd)                        |   |   |                                     |  |  |  |  |                                 |                            |  |
| See "Force Options" for use of OC guidelines for "Resisters"                                |   |   |                                     |  |  |  |  |                                 |                            |  |
| OC Spray/Chemical Weapons (Groups, crowds, and individuals taking part in a group or crowd) |   |   |                                     |  |  |  |  |                                 |                            |  |
| Superintendent or Designee Approval Required  |   |   |                                     |  |  |  |  |                                 |                            |  |
| Capsaicin II Powder Agent   |   |   |                                     |  |  |  |  |                                 |                            |  |
| Superintendent or Designee Approval Required  |   |   |                                     |  |  |  |  |                                 |                            |  |
| LRAD Acoustic Transmission  |   |   |                                     |  |  |  |  |                                 |                            |  |
| Superintendent or Designee Approval Required  |   |   |                                     |  |  |  |  |                                 |                            |  |
| Taser ***   |   |   |                                     |  |  |  |  |                                 |                            |  |
| Canine ***  |   |   |                                     |  |  |  |  |                                 |                            |  |

ote: With permission of the authors, the Use of Force Model has been modified to conform with the Chicago Police Department General Order entitled "Use of Force Guidelines."

- See addendum entitled "Force Options" for appropriate options and specific guidelines on active resisters.
- See addendum entitled "Force Options" for specific conditions on the use of tasers.
- See addendum entitled "Canines as a Force Option" for specific conditions on the use of canines.

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(Rev. MAY 2012)

Note: With permission of the authors, the Use of Force Model has been modified to conform with the Chicago Police Department General Order entitled "Use of Force Guidelines."

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(Rev. MAY 2012)

Garry F. McCarthy  
Superintendent of Police

11-205 TRH



**DEADLY FORCE**

|                 |                        |                 |                  |
|-----------------|------------------------|-----------------|------------------|
|                 |                        |                 |                  |
| ISSUE DATE:     | 10 February 2015       | EFFECTIVE DATE: | 10 February 2015 |
| RESCINDS:       | 1 October 2002 Version |                 |                  |
| INDEX CATEGORY: | Field Operations       |                 |                  |

**I. PURPOSE**

This directive:

- A. sets forth Department policy regarding a sworn member's use of deadly force.
- B. establishes guidelines controlling the use of deadly force by sworn members.

**II. DEPARTMENT POLICY**

- A. A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes that such force is necessary:
  - 1. to prevent death or great bodily harm to the sworn member or to another person, or;
  - 2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
    - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
    - b. is attempting to escape by use of a deadly weapon or;
    - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay.
- B. Sworn members who discharge a firearm will comply with the procedures detailed in the Department directive entitled "**Firearms Discharge Incidents Involving Sworn Members**."

**III. DEPARTMENT PROHIBITIONS FOR USE OF DEADLY FORCE**

Use of firearms in the following ways is prohibited:

- A. Firing into crowds.
- B. Firing warning shots.
- C. Firing into buildings or through doors, windows, or other openings when the person lawfully fired at is not clearly visible.
- D. Firing at a subject whose action is only a threat to the subject himself (e.g., attempted suicide).
- E. Firing at or into a moving vehicle when the vehicle is the only force used against the sworn member or another person.

**IV. AFFIRMATION OF PROTECTION OF LIFE POLICY**

Sworn members will not unreasonably endanger themselves or another person to conform to the restrictions of this directive.

(Items indicated by italics/double underline have been added or revised)

Garry F. McCarthy  
Superintendent of Police

15-025 MWK

## **GLOSSARY TERMS:**

### **1. Deadly Force (720 ILCS 5/7-8)**

A. Deadly force is force which is likely to cause death or great bodily harm and includes

1. The firing of a firearm in the direction of the person to be arrested, even though no intent exists to kill or inflict great bodily harm; and
2. The firing of a firearm at a vehicle in which the person to be arrested is riding.

B. A peace officer's discharge of a firearm using ammunition designed to disable or control an individual without creating the likelihood of death or great bodily harm (i.e., impact munitions) shall not be considered force likely to cause death or bodily harm

### **2. Use of Force to Prevent Escape (720 ILCS 5/7-9)**

A peace officer or other person who has an arrested person in custody is justified in the use of such force to prevent the escape of the arrested person from custody as he would be justified in using if he were arresting the person.

### **3. Forcible Felony (720 ILCS 5/2-8)**

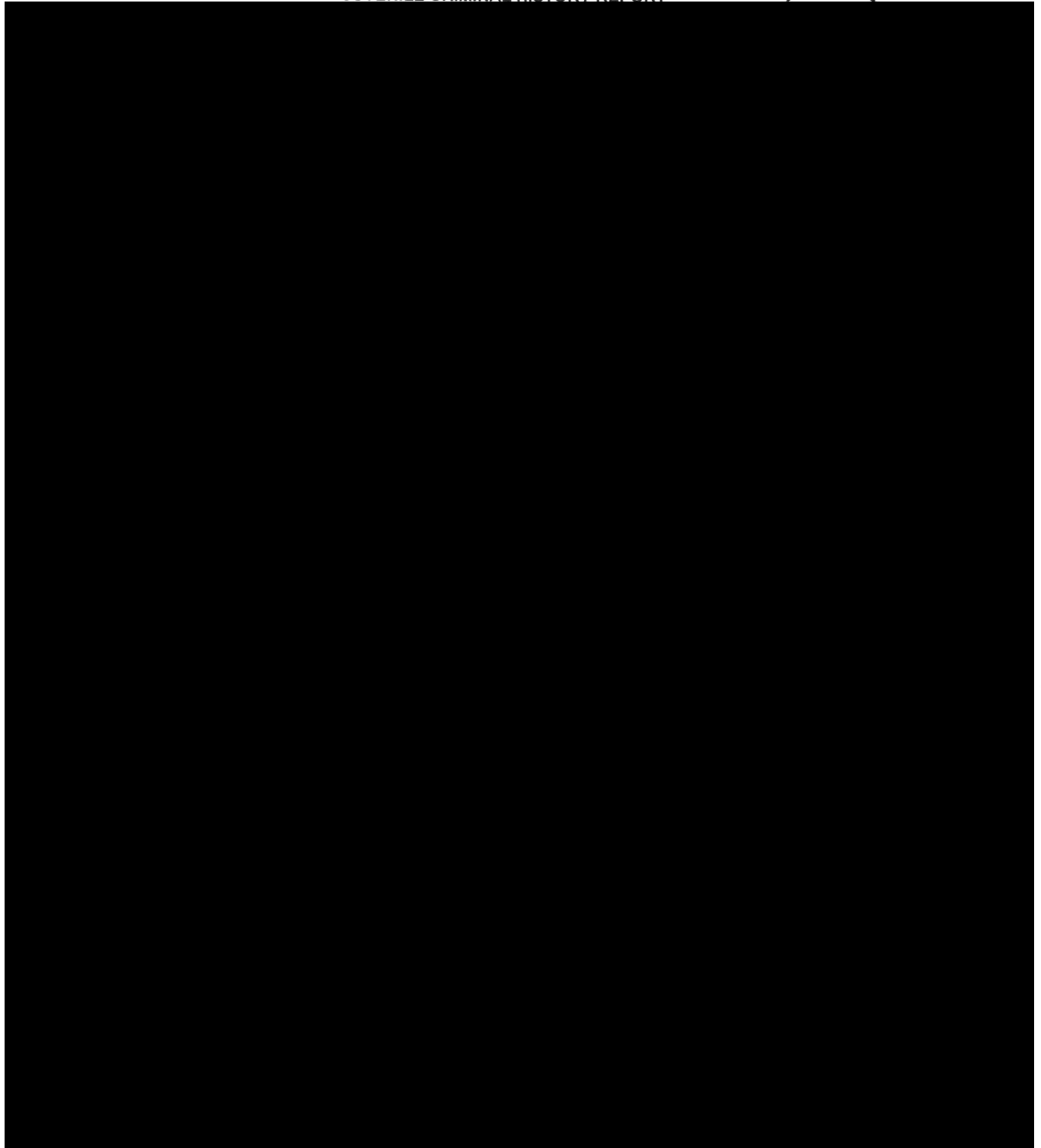
A forcible felony means any treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement, and any other felony which involves the use or threat of physical force or violence against any individual.



**CHICAGO POLICE DEPARTMENT**  
3510 South Michigan Avenue/Chicago, Illinois  
60653  
Identification Section

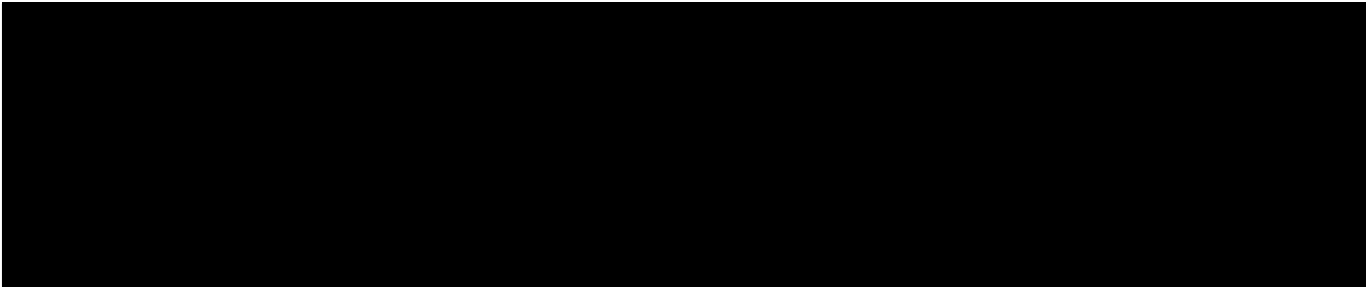


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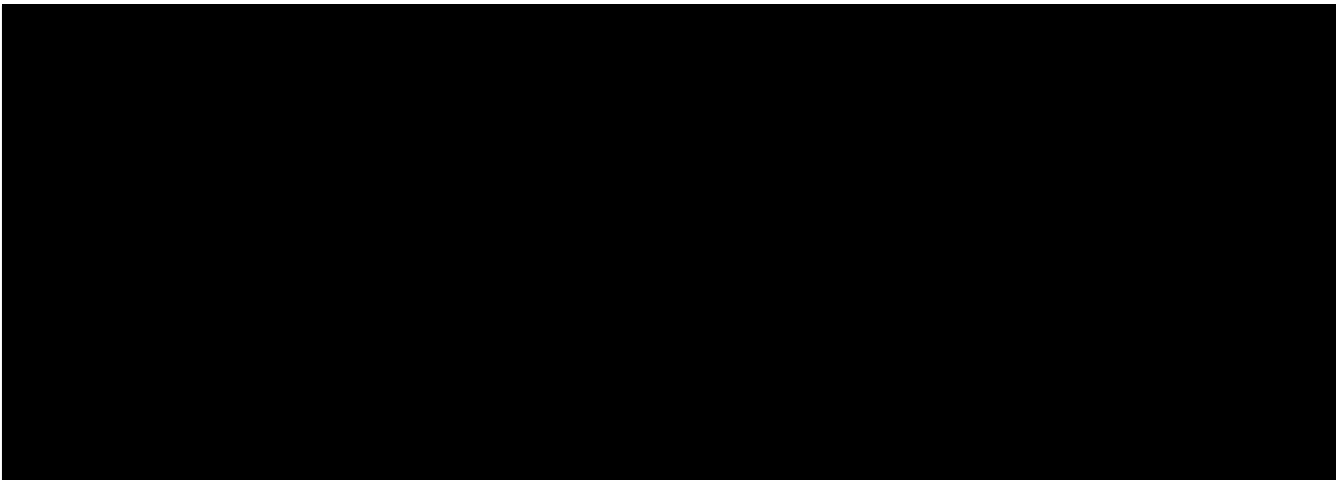


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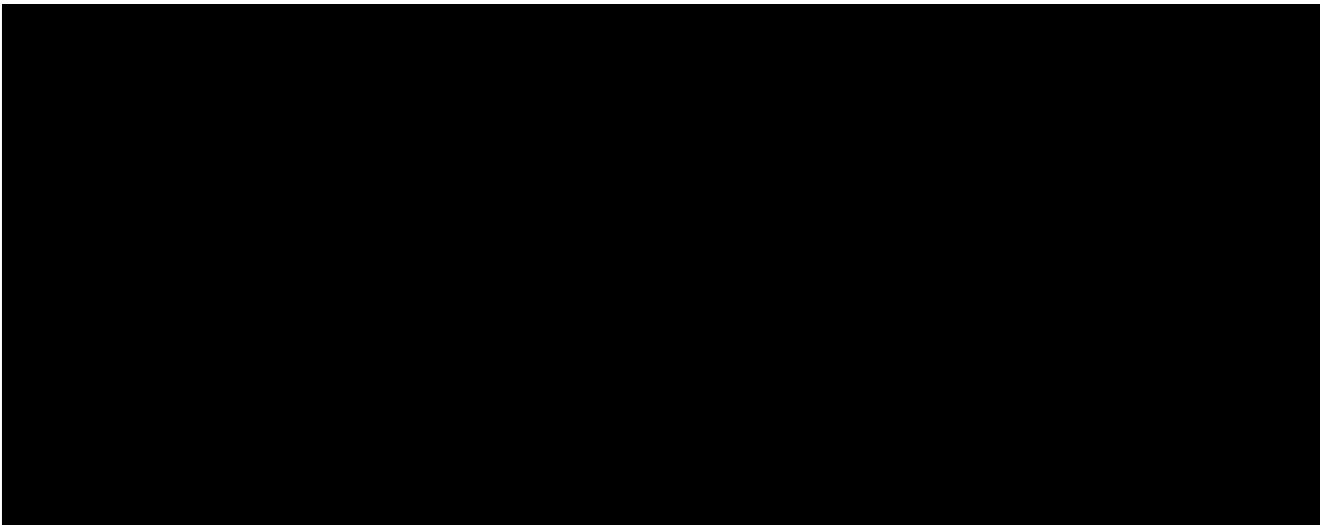
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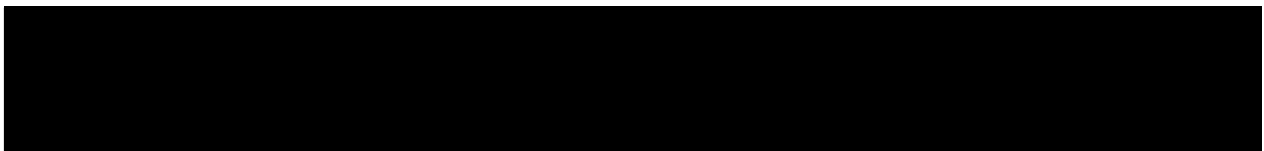
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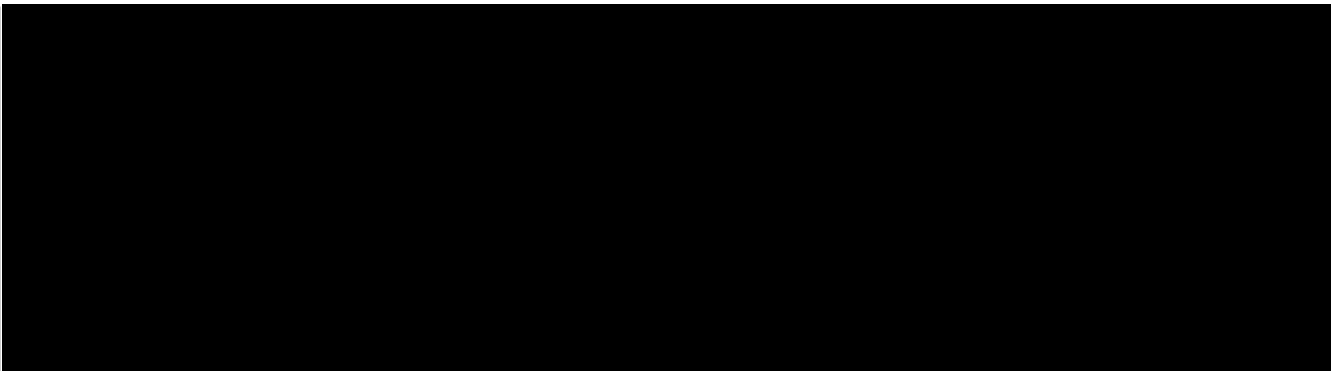


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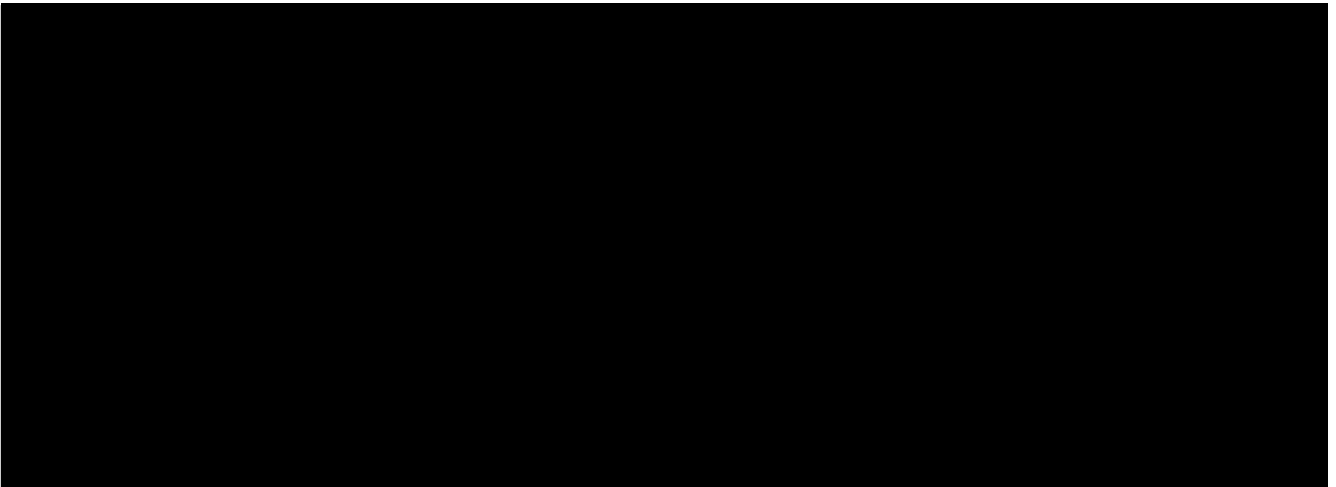


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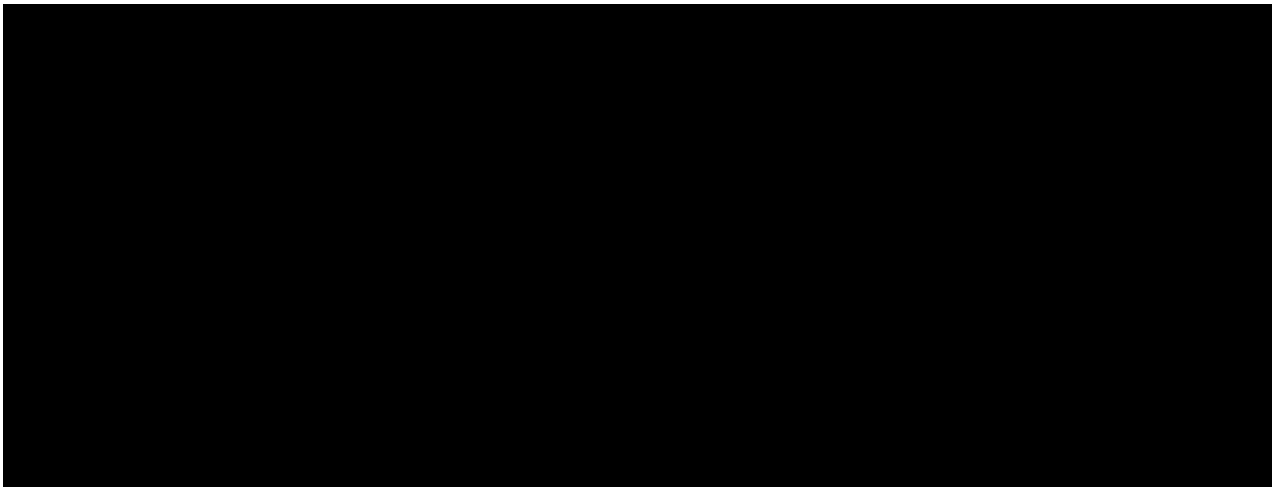




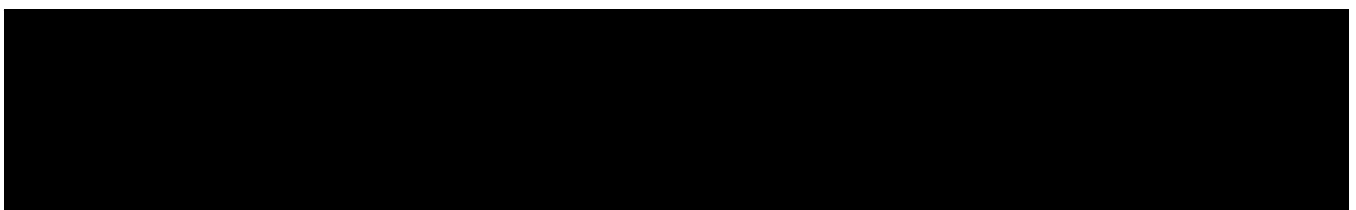
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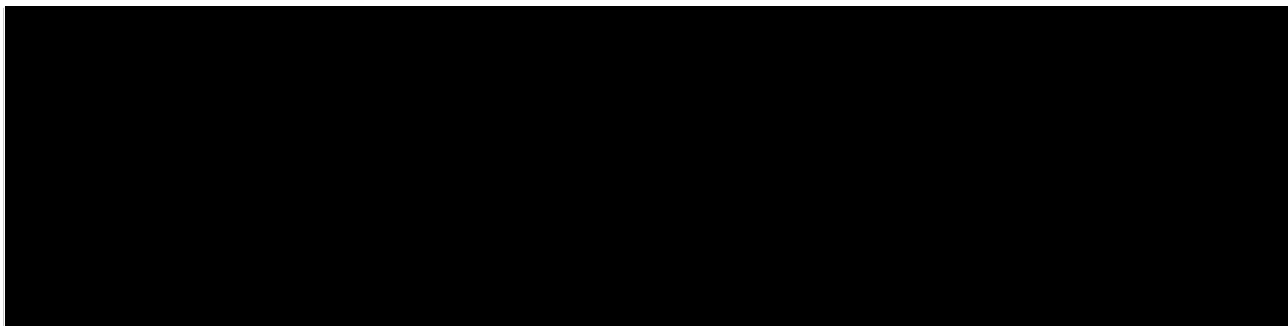


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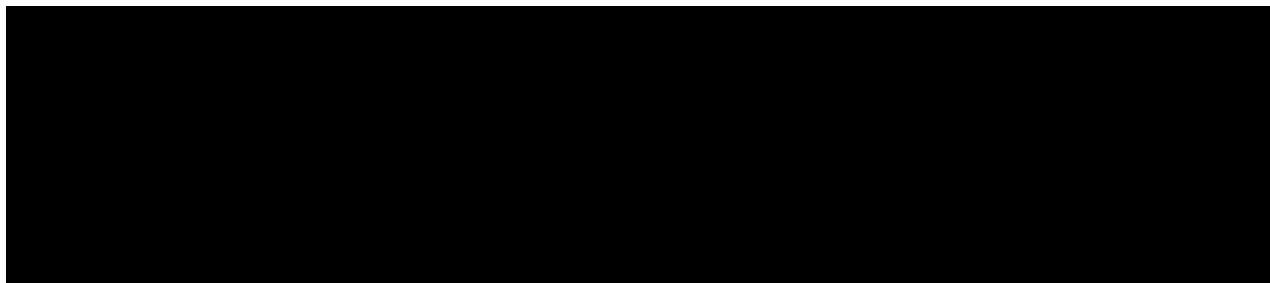


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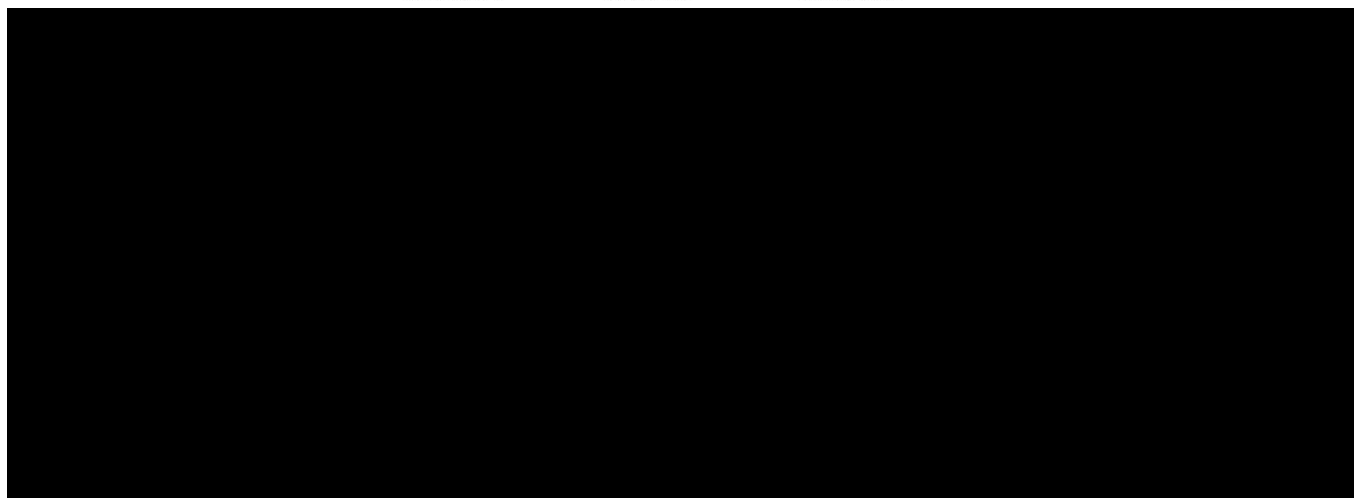




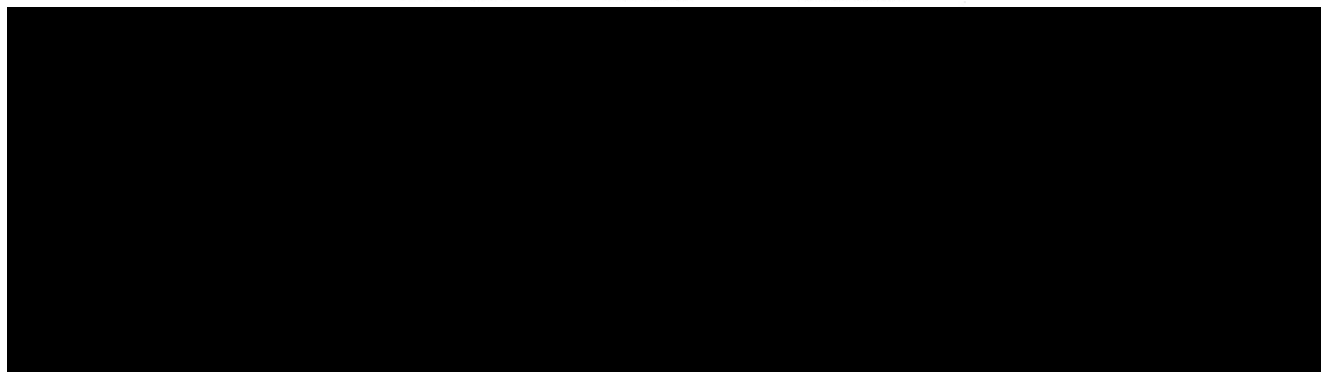
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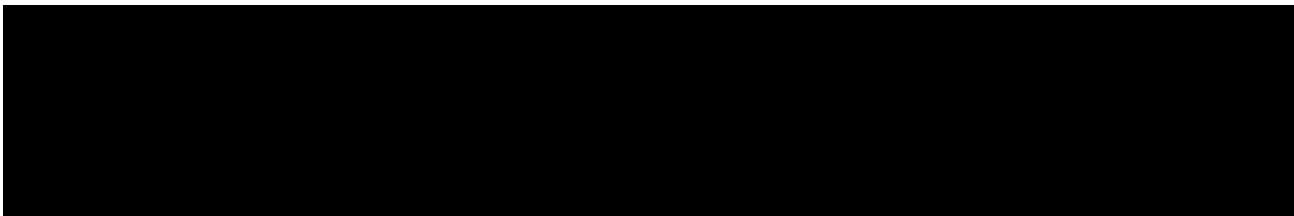


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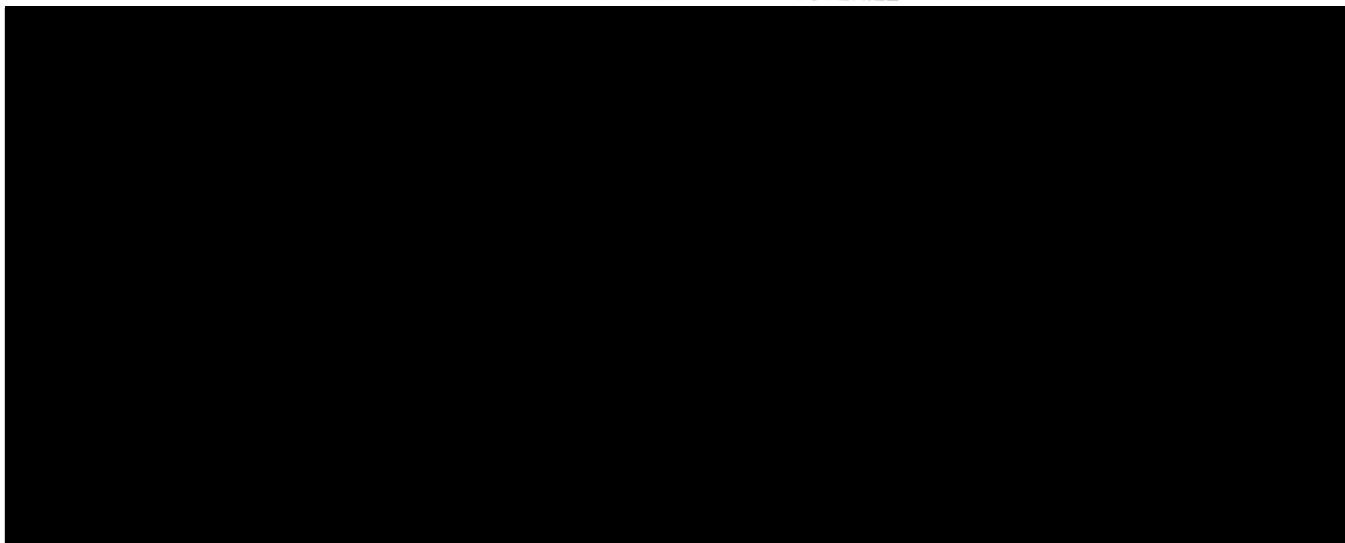


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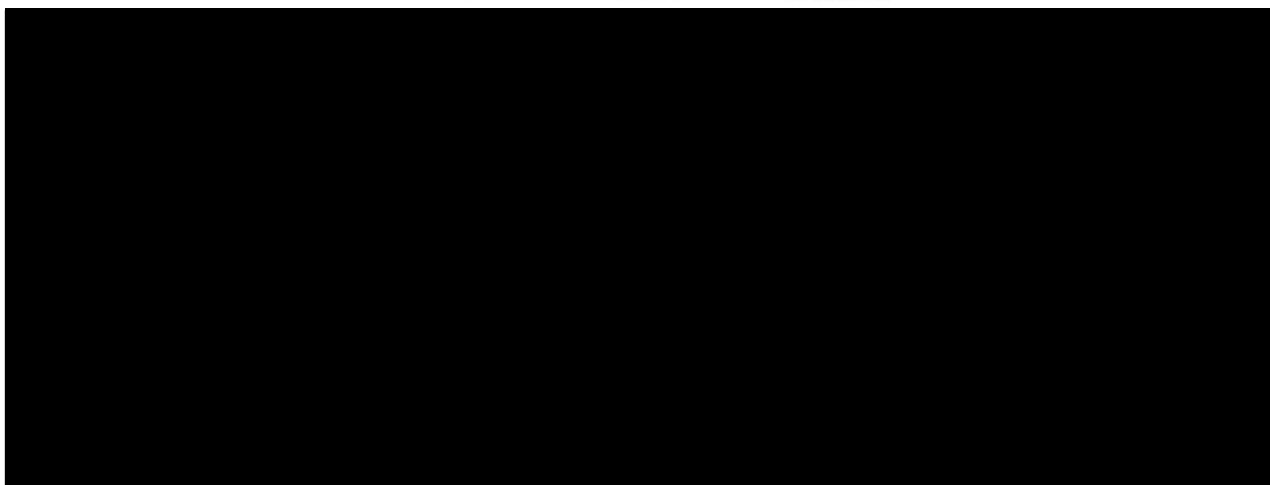




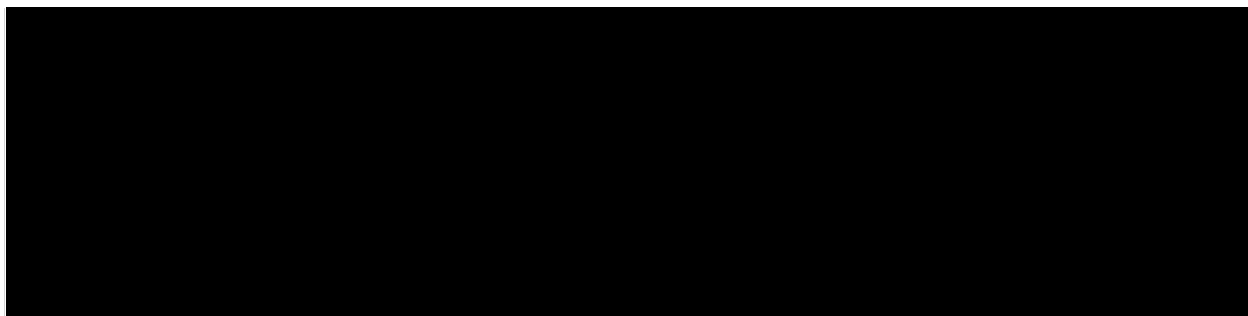
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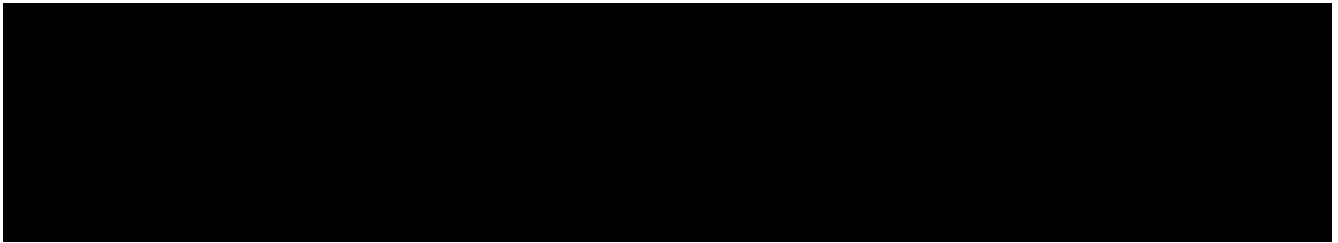


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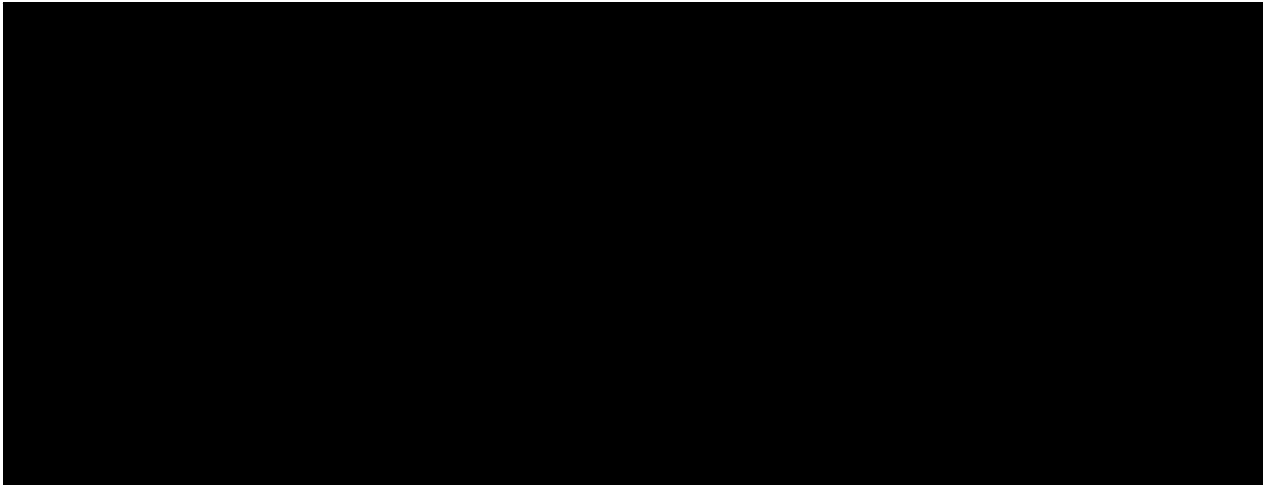


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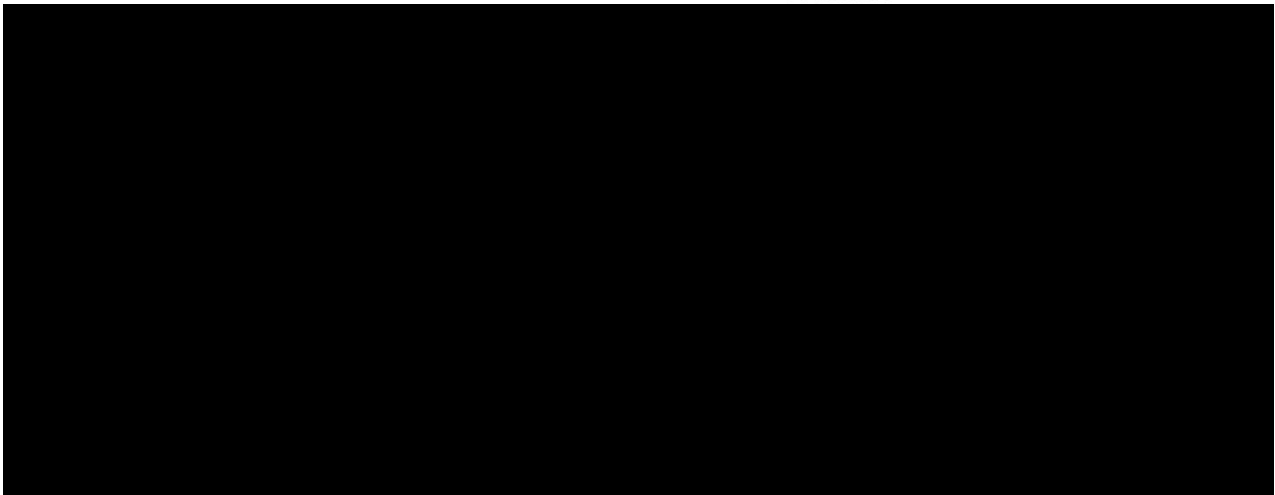




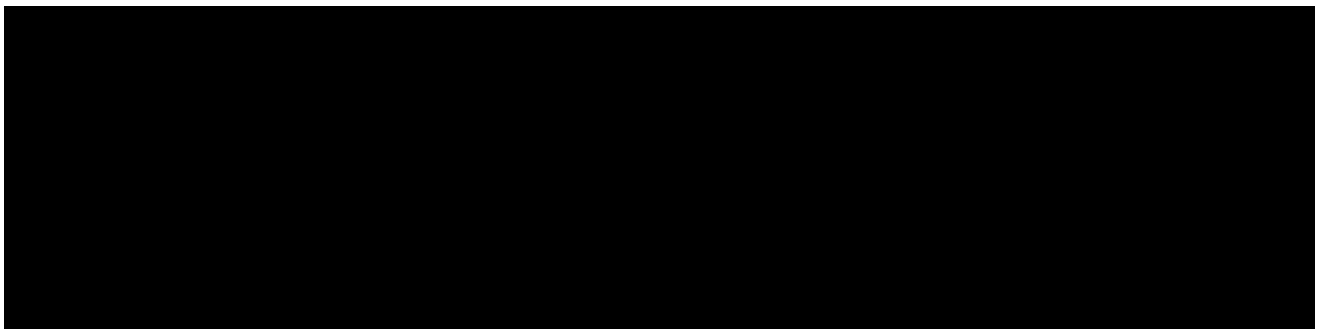
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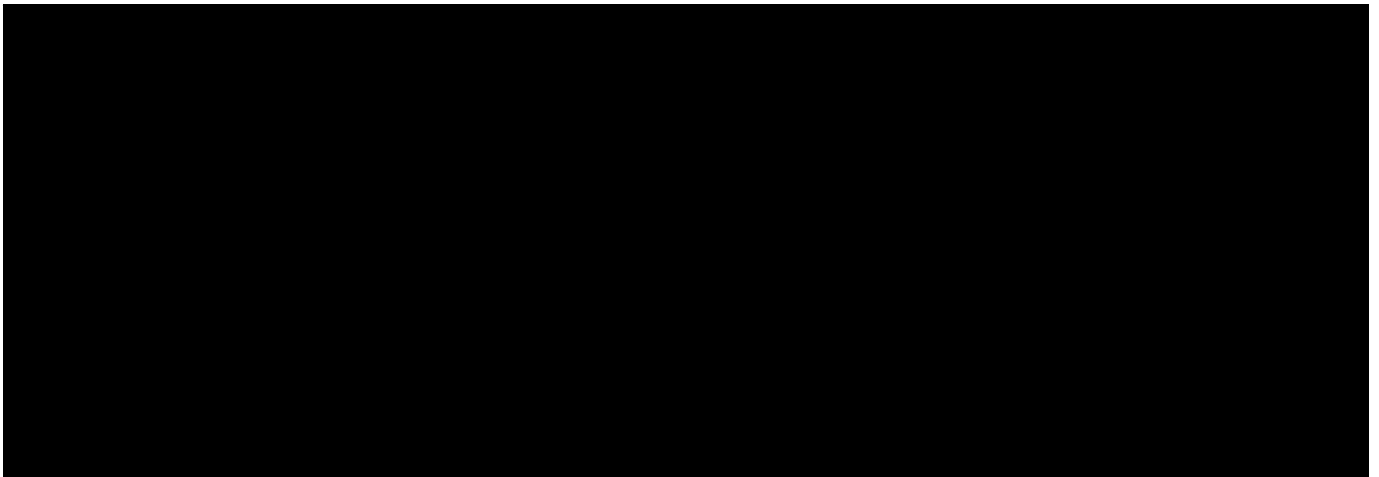


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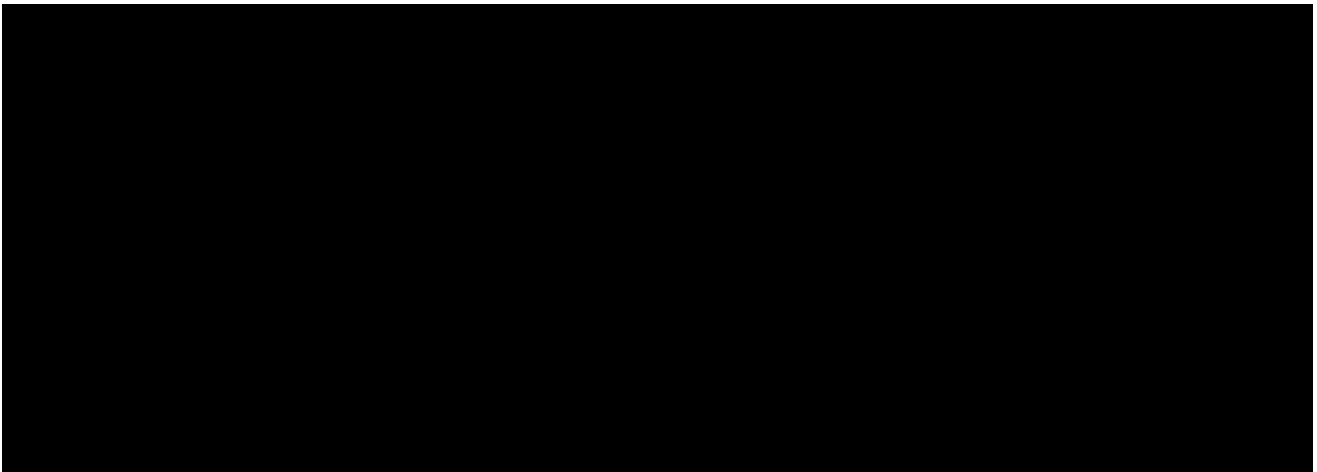




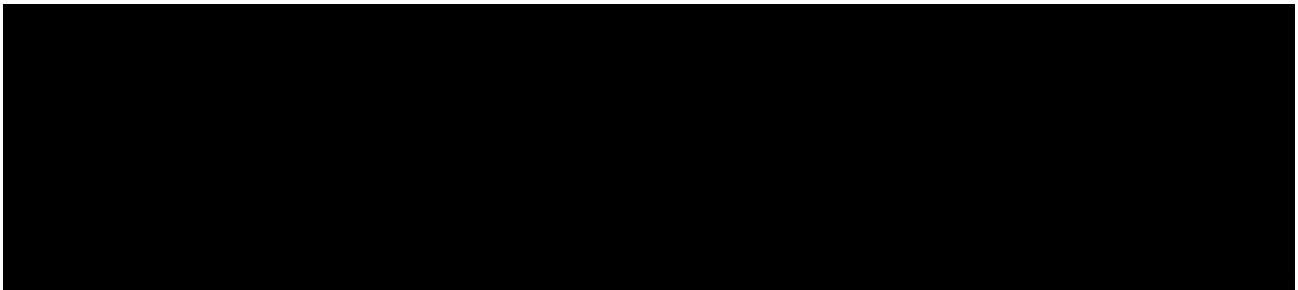
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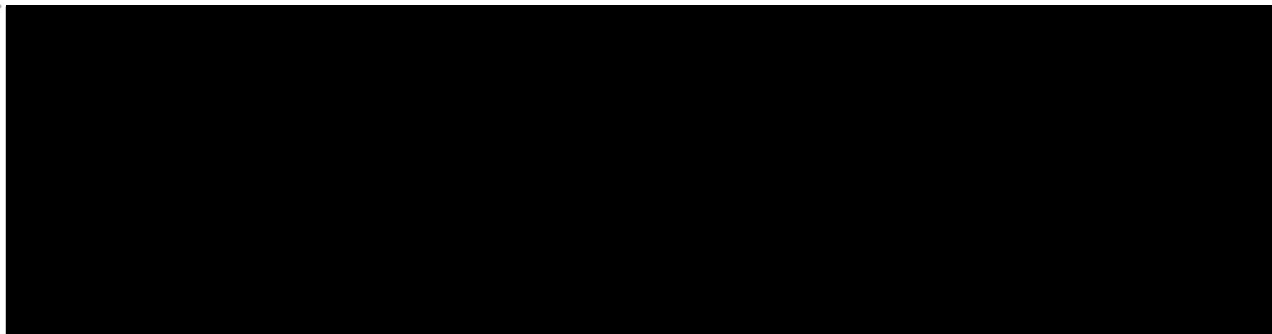


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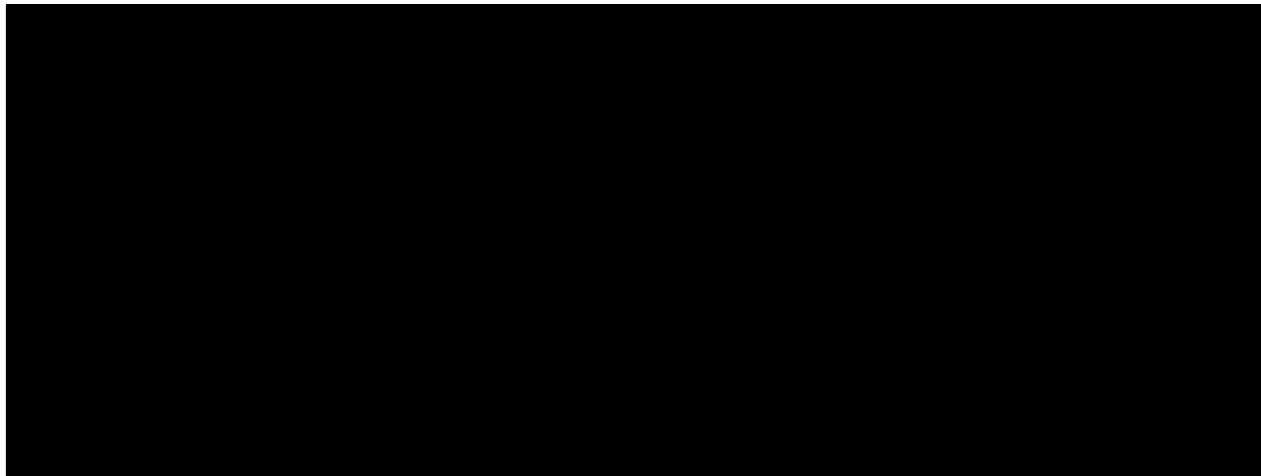


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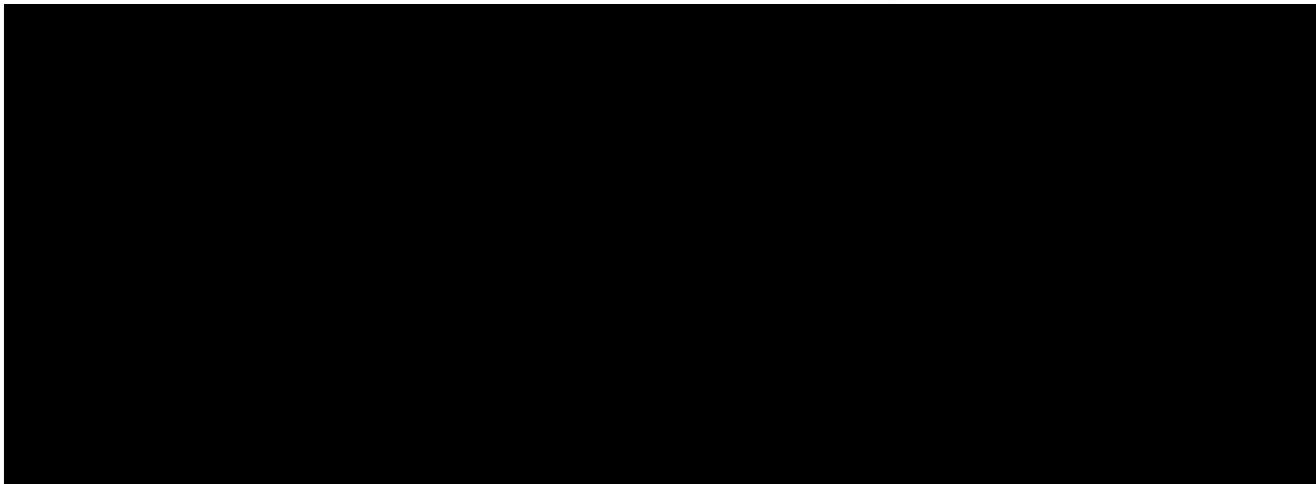




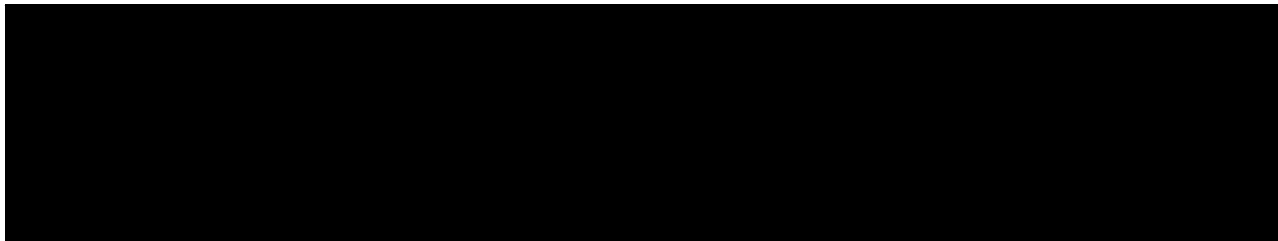
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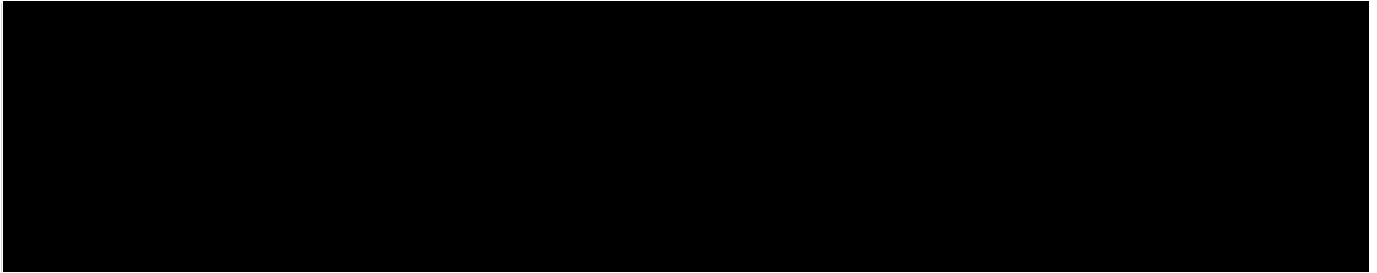


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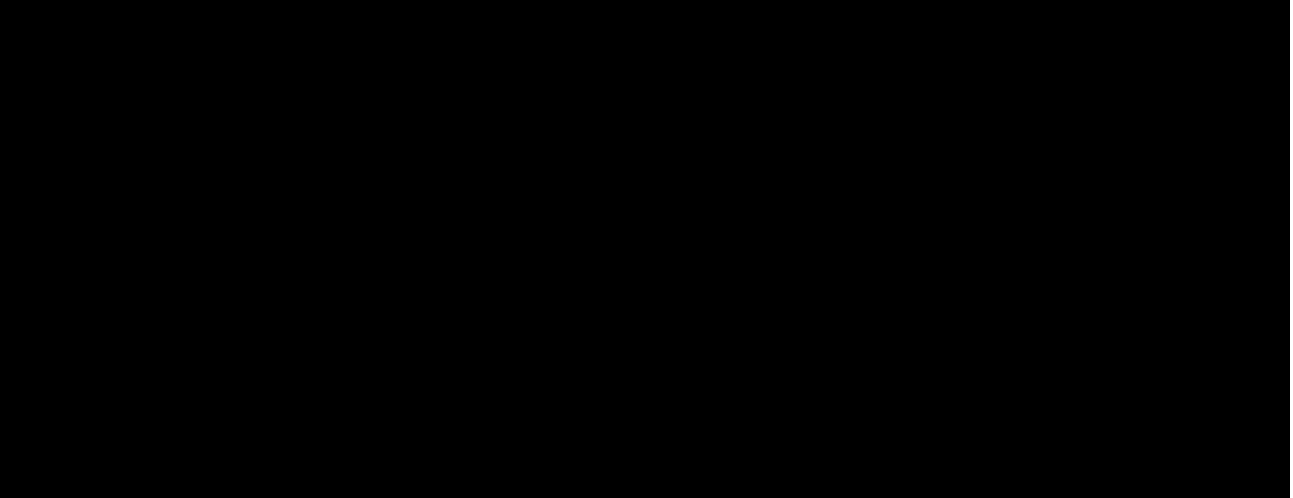


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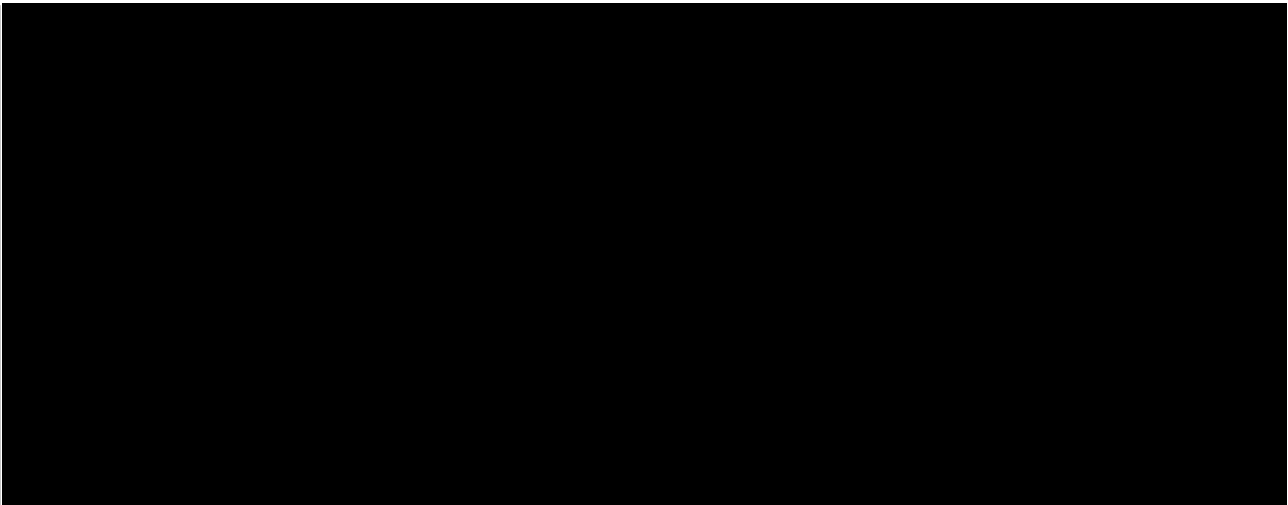




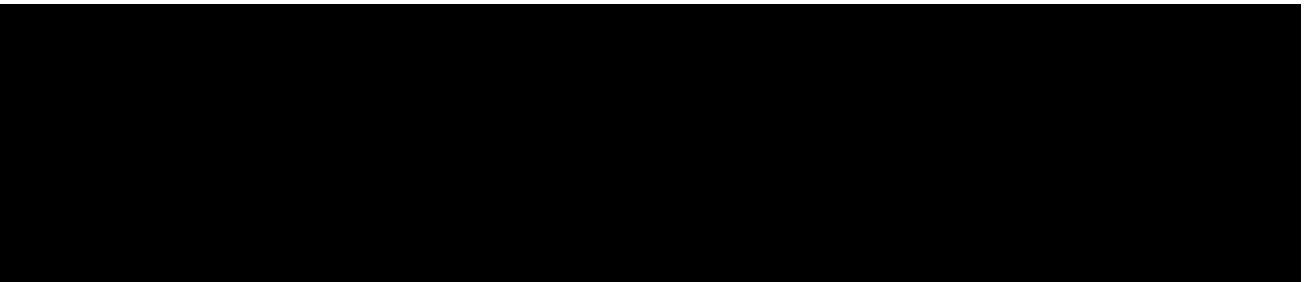
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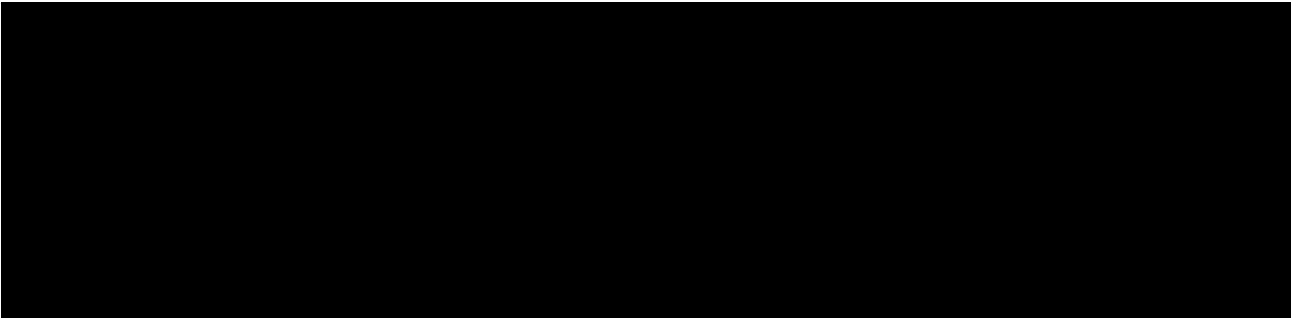


JUVENILE ARREST JUVENILE



JUVENILE ARREST JUVENILE





This Chicago Police Department IR rap-sheet should not replace the use of the Illinois State Police statewide criminal history transcript, which may contain additional criminal history data and can be obtained by performing a CQR1 inquiry via your LEADS terminal.

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21-APR-2016 17:30

Requested by: PC09469



EXHIBIT  
D. MARCH 8

# Training Review

December 2012



# TASER X2 TRAINING

Before deciding to deploy a Taser X2, the questions or criteria listed below should all be answered in the affirmative. If at any time the answer is no, stop and re-evaluate your decision to deploy.

According to Uniform and Property Order U04-02-04 II-D-3 A and B, there are two circumstances that must be present to deploy a taser:

- 1) The subject is an active resister or assailant.
- 2) You can safely approach the subject within 18 feet. The optimum range is 7-15 feet for effective probe spread, officer safety and accuracy.

## Key Points

- Consider potential secondary injuries from falling (on stairs, or an elevated height etc....).
- Check for flammable or combustible materials.

- Consider the severity of the crime, the threat level and the level of resistance.
- Refer to G03-02-02 "Force Options."

|                            |  |   |
|----------------------------|--|---|
| <b>Assailant</b>           | <p>Actions will likely cause death or serious physical injury</p> <p>Actions will likely cause physical injury</p> <p>Actions are aggressively offensive without weapons</p>   | <b>Subjects' Actions: Probable Central Utility / Danger</b>   |
| <b>Resister</b>            | <p><b>ACTIVE</b><br/>Movement to avoid physical control<br/><i>Volatile Dynamics</i></p> <p><b>PASSIVE</b><br/>Non-movement in response to verbal and other direction<br/><i>Variable Posturing</i></p> <p>Subject(s) cooperative, only in response to direction<br/><i>Variable Risk</i></p> <p>Subject(s) cooperative without direction<br/><i>Variable Distance</i></p> | <div style="writing-mode: vertical-rl; transform: rotate(180deg);">Probable Ineffective Control</div> <div style="writing-mode: vertical-rl; transform: rotate(180deg);">Probable Excessive Control</div> |
| <b>Cooperative Subject</b> |  |   |

## Use of Force Model

### Chicago Police Department

**Note:** With permission of the authors, the Use of Force Model has been modified to conform with the Chicago Police Department's "Order entitled 'Use of Force Guidelines'" for specific conditions on the use of force.

- \* See addendum entitled "Force Options" for specific conditions on the use of force.
- \*\* See addendum entitled "Canines as a Force Option" for specific conditions on the use of canines.

(1981 2007), John C. Dorschner. All rights reserved.  
(Rev. JULY 2010)

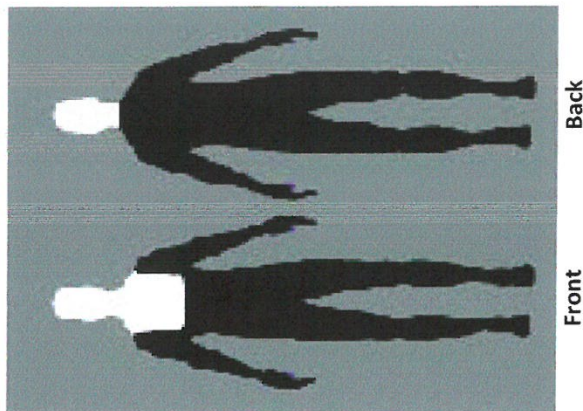
## DEPLOYING THE TASER

Once you have determined that a situation meets the criteria for Taser use, follow the steps below to ensure it is used safely and effectively.

The following 5 steps pertain to a **PROBE DISCHARGE**.

Remember to use **MINIMAL FORCE** to resolve the situation.

The recommended point of aim is the lower-center of mass for frontal shots. The solid, dark areas on the graphic below represent the preferred target areas.



### ① Give a Warning from U04-02-04 E-1

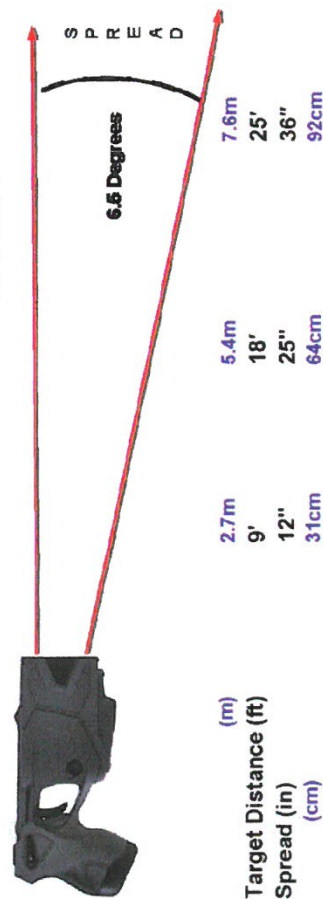
Warn others of the imminent deployment of the device by announcing "Taser! Taser! Taser!" Do not yell: "I'm shooting" or "I'm firing."

### ② Target Area

The top laser indicates the point of impact for top probe while the bottom probe travels downward at a 6.5 degree angle. The bottom laser indicated the point of impact for the bottom probe on 15ft and 25ft cartridges only. Both probes must contact the subject to allow the electrical energy to flow. If possible, aim at the subject's back for the following reasons:

- the surprise factor
- the back has higher muscle mass
- clothing fits tighter
- targeting the subject's back avoids inadvertent contact to the face, throat and groin

### DISTANCE



### ③ Deploy the Taser

- Each trigger pull will discharge a live cartridge and deliver current for a 5 second cycle. The X2 can be loaded with two (2) live cartridges.
- *It is not necessary to hold the trigger down for 5 seconds.* If you pull and quickly release the trigger, the device will deliver energy for the entire 5 seconds, the cycle will automatically stop, and the next live cartridge will be selected.
- If the trigger is held down beyond 5 seconds, the current will continue until the trigger is released.

#### ④ During the 5 Second Cycle

- Give verbal directions to the subject such as, "Put your hands behind your back!"
- Watch for a change in the subject's behavior and assess the Taser's effectiveness.
  - Check to see if both probes have a good contact
  - Check for an effective probe spread
  - Check to see if the probes are affecting high muscle mass

Remember, if you pull and quickly release the trigger, the device will deliver current for 5 seconds, automatically stop, and select the next live cartridge. If necessary, you may interrupt the cycle short of 5 seconds by placing the safety in the down (SAFE) position.

#### ⑤ After the Initial 5 Second Cycle

A 5 second cycle offers a window of opportunity for the assisting officers to subdue and physically control the subject. You can touch the subject, but avoid touching the wires, probes, and the area between the probes.

**Give the subject an opportunity to comply with your commands.**

Assess the situation and if the subject is not under control, consider the following options:

- Press the ARC switch to deliver additional cycles
- Pull and release the trigger to deploy a second cartridge
- **TRANSITION TO ANOTHER FORCE OPTION**

Each trigger pull and press of the ARC switch must be accounted for and is recorded. The record includes the time and duration of each cycle.

Each trigger pull and press of the ARC switch is considered a use of force and must conform to the standard of REASONABLENESS.

#### SAFETY REMINDERS

- Never point at anything you don't intend to shoot.
- Keep the weapon safety switch in the down (SAFE) position and pointed in a safe direction.
- Never place finger on trigger unless firing is imminent.
- Laser light can cause eye damage if directed into eyes for prolonged periods of time.
- Probes shot in the eyes can cause serious damage
- Never place hand in front of weapon, especially when changing the air cartridge.



## POST-DEPLOYMENT RESPONSIBILITIES

Upon gaining control of the subject, Department members will:

- 1) Notify OEMC
- 2) Request OEMC assign emergency medical personnel when:
  - a. Taser probes were discharged and penetrated a subject's skin.
  - b. Electrical current from the taser was applied to the subject's body.
  - c. The subject appears to be in any sort of distress.

Officers must be aware that individuals exhibiting signs of extreme psychological stress will likely require medical attention.

Officers are advised to inform responding EMS personnel of the subject's actions and condition immediately prior to the Taser deployment.

- 3) Notify their supervisor, the station supervisor assigned to the district of occurrence and CPIC.

- 4) Prepare a Tactical Response Report. The serial number from the spent cartridge will be required to complete the TRR.

The Responding Supervisor will:

- 1) For deployment in a residence, request assignment of an ET. In an area other than a residence, indoors or outdoors, determine if an ET is required.

The ET will photograph the locations where the probes penetrated the subject and/or any other injuries incurred as a result of the taser deployment.

- 2) Inventory the discharged probes and used cartridges in the following manner:

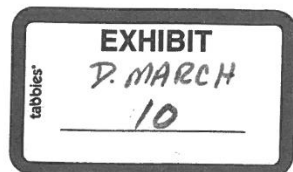
- a. The probes will be detached from the wires and inserted, pointed ends first, back into the cartridge.
  - b. The cartridge will be wrapped with tape to secure the probes inside.
- 3) Take control of the device, and deliver it to the station supervisor.

The Station Supervisor will:

- 1) Notify IPRA and ensure a log number is obtained. (Notify CPIC when IPRA is unavailable).
- 2) Download the deployment data and print out the data sheet. Only date of deployment is required.
- 3) Review and complete the TRR
- 4) Ensure the data sheet is attached to the TRR and a copy of the original case report.

The above actions are a summary of responsibilities after the field deployment of a Taser X2 device.

For a complete list of department investigative and reporting procedures, refer to Special Order S03-02-02 entitled "Other Weapon Discharge Incidents," section IV "Discharge of a Taser."



(720 ILCS 5/12-2) (from Ch. 38, par. 12-2)

(Text of Section from P.A. 99-78)

Sec. 12-2. Aggravated assault.

(a) Offense based on location of conduct. A person commits aggravated assault when he or she commits an assault against an individual who is on or about a public way, public property, a public place of accommodation or amusement, or a sports venue.

(b) Offense based on status of victim. A person commits aggravated assault when, in committing an assault, he or she knows the individual assaulted to be any of the following:

(1) A physically handicapped person or a person 60 years of age or older and the assault is without legal justification.

(2) A teacher or school employee upon school grounds or grounds adjacent to a school or in any part of a building used for school purposes.

(3) A park district employee upon park grounds or grounds adjacent to a park or in any part of a building used for park purposes.

(4) A peace officer, community policing volunteer, fireman, private security officer, emergency management worker, emergency medical technician, or utility worker:

(i) performing his or her official duties;

(ii) assaulted to prevent performance of his or her official duties; or

(iii) assaulted in retaliation for performing his or her official duties.

(5) A correctional officer or probation officer:

(i) performing his or her official duties;

(ii) assaulted to prevent performance of his or her official duties; or

(iii) assaulted in retaliation for performing his or her official duties.

(6) A correctional institution employee, a county juvenile detention center employee who provides direct and continuous supervision of residents of a juvenile detention center, including a county juvenile detention center employee who supervises recreational activity for residents of a juvenile detention center, or a Department of Human Services employee, Department of Human Services officer, or employee of a subcontractor of the Department of Human Services supervising or controlling sexually dangerous persons or sexually violent persons:

(i) performing his or her official duties;

(ii) assaulted to prevent performance of his or her official duties; or

(iii) assaulted in retaliation for performing his or her official duties.

(7) An employee of the State of Illinois, a municipal corporation therein, or a political subdivision thereof, performing his or her official duties.

(8) A transit employee performing his or her official duties, or a transit passenger.

(9) A sports official or coach actively participating in any level of athletic competition within a sports venue, on an indoor playing field or outdoor playing

field, or within the immediate vicinity of such a facility or field.

(10) A person authorized to serve process under Section 2-202 of the Code of Civil Procedure or a special process server appointed by the circuit court, while that individual is in the performance of his or her duties as a process server.

(c) Offense based on use of firearm, device, or motor vehicle. A person commits aggravated assault when, in committing an assault, he or she does any of the following:

(1) Uses a deadly weapon, an air rifle as defined in Section 24.8-0.1 of this Act, or any device manufactured and designed to be substantially similar in appearance to a firearm, other than by discharging a firearm.

(2) Discharges a firearm, other than from a motor vehicle.

(3) Discharges a firearm from a motor vehicle.

(4) Wears a hood, robe, or mask to conceal his or her identity.

(5) Knowingly and without lawful justification shines or flashes a laser gun sight or other laser device attached to a firearm, or used in concert with a firearm, so that the laser beam strikes near or in the immediate vicinity of any person.

(6) Uses a firearm, other than by discharging the firearm, against a peace officer, community policing volunteer, fireman, private security officer, emergency management worker, emergency medical technician, employee of a police department, employee of a sheriff's department, or traffic control municipal employee:

(i) performing his or her official duties;

(ii) assaulted to prevent performance of his or her official duties; or

(iii) assaulted in retaliation for performing his or her official duties.

(7) Without justification operates a motor vehicle in a manner which places a person, other than a person listed in subdivision (b)(4), in reasonable apprehension of being struck by the moving motor vehicle.

(8) Without justification operates a motor vehicle in a manner which places a person listed in subdivision (b)(4), in reasonable apprehension of being struck by the moving motor vehicle.

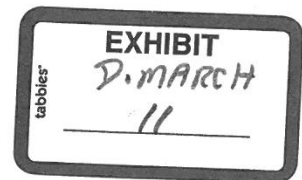
(9) Knowingly video or audio records the offense with the intent to disseminate the recording.

(d) Sentence. Aggravated assault as defined in subdivision (a), (b)(1), (b)(2), (b)(3), (b)(4), (b)(7), (b)(8), (b)(9), (c)(1), (c)(4), or (c)(9) is a Class A misdemeanor, except that aggravated assault as defined in subdivision (b)(4) and (b)(7) is a Class 4 felony if a Category I, Category II, or Category III weapon is used in the commission of the assault. Aggravated assault as defined in subdivision (b)(5), (b)(6), (b)(10), (c)(2), (c)(5), (c)(6), or (c)(7) is a Class 4 felony. Aggravated assault as defined in subdivision (c)(3) or (c)(8) is a Class 3 felony.

(e) For the purposes of this Section, "Category I weapon", "Category II weapon, and "Category III weapon" have the

meanings ascribed to those terms in Section 33A-1 of this Code.

(Source: P.A. 98-385, eff. 1-1-14; 99-78, eff. 7-20-15.)



(720 ILCS 5/33A-1) (from Ch. 38, par. 33A-1)

Sec. 33A-1. Legislative intent and definitions.

(a) Legislative findings. The legislature finds and declares the following:

(1) The use of a dangerous weapon in the commission of a felony offense poses a much greater threat to the public health, safety, and general welfare, than when a weapon is not used in the commission of the offense.

(2) Further, the use of a firearm greatly facilitates the commission of a criminal offense because of the more lethal nature of a firearm and the greater perceived threat produced in those confronted by a person wielding a firearm. Unlike other dangerous weapons such as knives and clubs, the use of a firearm in the commission of a criminal felony offense significantly escalates the threat and the potential for bodily harm, and the greater range of the firearm increases the potential for harm to more persons. Not only are the victims and bystanders at greater risk when a firearm is used, but also the law enforcement officers whose duty is to confront and apprehend the armed suspect.

(3) Current law does contain offenses involving the use or discharge of a gun toward or against a person, such as aggravated battery with a firearm, aggravated discharge of a firearm, and reckless discharge of a firearm; however, the General Assembly has legislated greater penalties for the commission of a felony while in possession of a firearm because it deems such acts as more serious.

(b) Legislative intent.

(1) In order to deter the use of firearms in the commission of a felony offense, the General Assembly deems it appropriate for a greater penalty to be imposed when a firearm is used or discharged in the commission of an offense than the penalty imposed for using other types of weapons and for the penalty to increase on more serious offenses.

(2) With the additional elements of the discharge of a firearm and great bodily harm inflicted by a firearm being added to armed violence and other serious felony offenses, it is the intent of the General Assembly to punish those elements more severely during commission of a felony offense than when those elements stand alone as the act of the offender.

(3) It is the intent of the 91st General Assembly that should Public Act 88-680 be declared unconstitutional for a violation of Article 4, Section 8 of the 1970 Constitution of the State of Illinois, the amendatory changes made by Public Act 88-680 to Article 33A of the Criminal Code of 1961 and which are set forth as law in this amendatory Act of the 91st General Assembly are hereby reenacted by this amendatory Act of the 91st General Assembly.

(c) Definitions.

(1) "Armed with a dangerous weapon". A person is considered armed with a dangerous weapon for purposes of this Article, when he or she carries on or about his or

her person or is otherwise armed with a Category I, Category II, or Category III weapon.

(2) A Category I weapon is a handgun, sawed-off shotgun, sawed-off rifle, any other firearm small enough to be concealed upon the person, semiautomatic firearm, or machine gun. A Category II weapon is any other rifle, shotgun, spring gun, other firearm, stun gun or taser as defined in paragraph (a) of Section 24-1 of this Code, knife with a blade of at least 3 inches in length, dagger, dirk, switchblade knife, stiletto, axe, hatchet, or other deadly or dangerous weapon or instrument of like character. As used in this subsection (b) "semiautomatic firearm" means a repeating firearm that utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round and that requires a separate pull of the trigger to fire each cartridge.

(3) A Category III weapon is a bludgeon, black-jack, slungshot, sand-bag, sand-club, metal knuckles, billy, or other dangerous weapon of like character.

(Source: P.A. 91-404, eff. 1-1-00; 91-696, eff. 4-13-00.)

04 Dec 2012

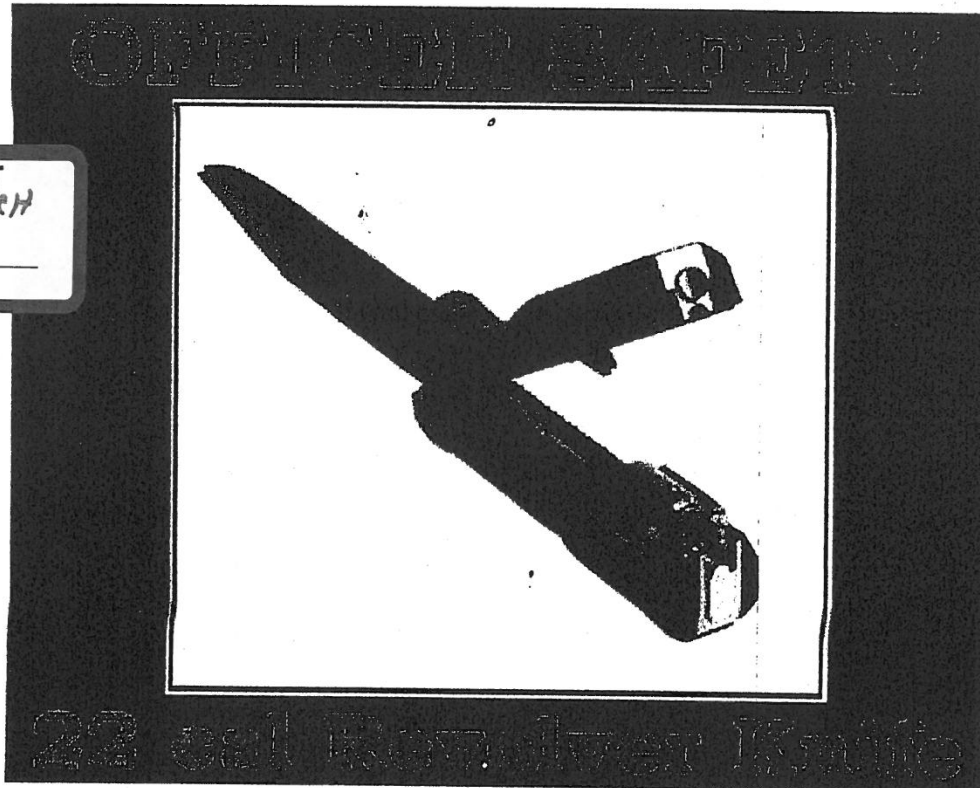
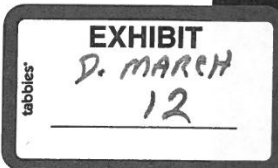
2012-OSA-297



# CRIME CONTROL STRATEGIES DEPLOYMENT OPERATIONS CENTER



REFERENCE: Knife Revolver



OFFICER  
SAFETY  
ALERT

A Midwest intelligence organization is sharing the above captioned photograph for officer safety and awareness.

Officers should take note of the "Revolver Knife" and remain cognizant of its threat to personal safety.

If an officer recovers any such weapon, they are asked to notify CPIC.

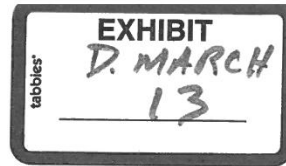


Deployment  
Analytical  
Group

This Information Bulletin can be viewed through the Deployment Operations Center link on the Chicago Police Department Intranet  
Bell 312-745-5669 Pax 0100 Fax 312-745-6927

THE CONTENT OF THIS DOCUMENT IS LAW ENFORCEMENT SENSITIVE (LES) AND IS FOR OFFICIAL USE ONLY (FOUO). Any further disclosure or dissemination of this document or the information contained herein is strictly prohibited without the approval of the Chicago Police Department's Deployment Operations Center. Elements of this document may be subject to 28 CFR Part 23. Illinois DL or ID images are only for use as authorized by 625 ILCS 5/6-110.1 and 92 Ill. Adm. Code 1030.140. This information shall not be released to the media or the general public.

FAILURE TO ADHERE TO THESE POLICIES MAY RESULT IN CIVIL, CRIMINAL OR DISCIPLINARY ACTION.



On Monday, 20 October 2016, at 9:47 pm, civilian Rudy BARILLAS, called 9-1-1 to report that a person, now known as Laquan MCDONALD, was breaking into the trucks parked in the trucking lot at West 41st Street and South Kildare Avenue. After calling 9-1-1, BARILLAS confronted MCDONALD and told him to leave the lot. According to both BARILLAS and [REDACTED] who was also present in the lot, MCDONALD "growled" at BARILLAS. MCDONALD then produced a knife and swung the knife at BARILLAS, attempting to cut him. BARILLAS threw his cellular telephone at MCDONALD, who then fled the lot on foot.

Chicago Police Officers Thomas GAFFNEY and Joseph MCELLIGOTT, were assigned to respond to BARILLAS' call. The officers were both in uniform and were driving a marked police vehicle. When they arrived at the lot, BARILLAS told them what had occurred. BARILLAS gave the officers a description of MCDONALD and told them MCDONALD had fled north on Kildare, then east on West 40th Street.

The officers located MCDONALD walking eastbound on the sidewalk, on the south side of 40th Street, from Kildare. Officer MCELLIGOTT exited the police vehicle and approached MCDONALD on foot. MCELLIGOTT called to MCDONALD and told him to stop. MCDONALD ignored MCELLIGOTT and continued walking eastbound. MCDONALD's hands were in his pockets so MCELLIGOTT told MCDONALD to take his hands out of his pockets. MCDONALD took his hands out of his pockets revealing that he was holding a knife in his right hand. MCELLIGOTT repeatedly ordered MCDONALD to drop the knife but he ignored MCELLIGOTT's directions. As MCDONALD reached South Keeler Avenue, Officer GAFFNEY notified the radio dispatcher that they were following a subject who was armed with a knife, and requested assistance from a unit equipped with a taser.

The officers continued to follow MCDONALD, eastbound on the sidewalk from Keeler Avenue. As MCDONALD approached South Karlov Avenue, Officer GAFFNEY turned his police vehicle southbound onto Karlov and stopped, blocking the crosswalk. The area where this incident began was industrial in nature, and at that time of day, almost 10:00 pm, it was deserted. All of the businesses were closed and there was no vehicular or pedestrian traffic. As MCDONALD continued to walk eastbound however, he was approaching South Pulaski Road, a business street where more civilians were present, both in vehicles and as pedestrians, and occupying the businesses on Pulaski. Officer GAFFNEY wanted to stop MCDONALD before he reached this more populated area and put more people at risk for injury. When GAFFNEY stopped his vehicle in the crosswalk, blocking MCDONALD's path, MCDONALD stabbed the right front tire of the vehicle with his knife, causing the tire to go flat. GAFFNEY immediately informed the radio dispatcher that MCDONALD had attacked the marked police vehicle, and had "popped" the tire with the knife. MCDONALD attempted to walk around the front of the police vehicle and GAFFNEY drove the vehicle forward a short distance to continue to block MCDONALD. At this point MCDONALD stabbed at the windshield of the marked police vehicle, striking it with the knife. He then was able to get around the vehicle and continued eastbound on the sidewalk from Karlov.

At 40th Street and Pulaski Road, on the southwest corner, was a Burger King restaurant with a large parking lot. As assisting police units approached westbound on 40th Street from Pulaski, MCDONALD ran eastbound through the parking lot, on the north side of the Burger King restaurant building. In the restaurant parking lot Chicago Police Officers Joseph WALSH and Jason VAN DYKE were in the first responding assist unit. They took over the pursuit of MCDONALD through the parking lot. These officers were also in uniform and driving a marked

police vehicle. WALSH, who was driving their vehicle, positioned the vehicle between MCDONALD and the restaurant building, to keep MCDONALD from entering the restaurant.

MCDONALD ran through the parking lot and out onto Pulaski Road. He turned southbound and began to walk in the southbound lanes of the street. Officer WALSH pursued MCDONALD with the police vehicle. As MCDONALD continued southbound, WALSH positioned his vehicle between MCDONALD and a Dunkin' Donuts restaurant, on the east side of Pulaski Road. When the police vehicle was alongside MCDONALD, Officer VAN DYKE opened his door to exit the vehicle and confront MCDONALD. WALSH, realizing they were too close to MCDONALD to safely exit the vehicle, told VAN DYKE to wait until they were further ahead of MCDONALD.

Officers WALSH and VAN DYKE drove further south on Pulaski and stopped the police vehicle ahead of MCDONALD. WALSH and VAN DYKE both exited their vehicle and drew their handguns. The officers stood in the street facing northbound, toward MCDONALD. Both officers were in uniform, standing next to their marked police vehicle. As MCDONALD approached southbound, he was holding the knife in his right hand, in an underhand grip, with the blade pointed forward. As he walked toward the officers he swung the knife in an aggressive, exaggerated manner. Both officers ordered him to drop the knife multiple times. MCDONALD ignored these directions and continued to advance toward the officers, with the distance between MCDONALD and the officers decreasing.

When MCDONALD got to within 10 to 15 feet of the officers, he looked toward the officers, squaring his shoulders in their direction. He raised the knife, pointing it at the officers. Officer VAN DYKE, believing MCDONALD was attacking VAN DYKE with the knife, attempting to kill VAN DYKE, fired his handgun in defense of his life, to stop the attack. MCDONALD fell to the ground but continued to move, and continued to grasp the knife, refusing to let go of it. VAN DYKE continued to fire his weapon at MCDONALD as MCDONALD was on the ground, as VAN DYKE thought MCDONALD was attempting to get up, all the while continuing to point the knife at VAN DYKE. VAN DYKE fired his pistol until the slide of the weapon locked in the rearward position, indicating the weapon was empty. VAN DYKE immediately reloaded his weapon with a new magazine and assessed the situation.

MCDONALD was no longer moving and the threat had been mitigated, so the officers approached MCDONALD. MCDONALD was still holding the knife in his right hand and both officers continued to order him to drop the knife. Finally Officer WALSH was able to approach MCDONALD and forcibly kick the knife out of his hand. An ambulance was then requested for MCDONALD. He was transported to Mount Sinai Hospital and subsequently expired from his wounds.

During the course of this investigation a canvass was conducted of the area near the scene for witnesses to this incident including the Burger King restaurant and the Dunkin' Donuts restaurant.

Relevant video recordings were recovered from the in-car video systems of two of the Chicago Police Department vehicles involved in this incident, the Dunkin' Donuts restaurant and the Greater Chicago Food Depository. All of these videos were in my opinion, consistent with the statements of the witnesses in this case.

Additional video was recovered from other sources, including the Burger King restaurant. These video recordings did not contain any video footage relevant to this investigation.

It should be noted that five police units had responded to this incident by the time Officer VAN DYKE fired his handgun at Laquan MCDONALD. Each of these units contained two officers. All five police vehicles were marked vehicles and all ten police officers at or near the scene were in uniform. There can be no doubt that MCDONALD knew the personnel he was interacting with were Chicago Police Officers. Multiple officers issued verbal directions multiple times for MCDONALD to drop the knife with which he was armed. At anytime MCDONALD could have chosen to follow the lawful directions of the officers to drop the knife and this incident would have ended with no harm to anyone involved.

Some relevant state law needs to be cited to understand the findings of this investigation:

- "720 ILCS 5/7-7. Private person's use of force in resisting arrest.

A person is not authorized to use force to resist an arrest which he knows is being made either by a peace officer or by a private person summoned and directed by a peace officer to make the arrest, even if he believes that the arrest is unlawful and the arrest in fact is unlawful."

- "720 ILCS 5/7-5. Peace officer's use of force in making arrest.

(a) A peace officer, or any person whom he has summoned or directed to assist him, need not retreat or desist from efforts to make a lawful arrest because of resistance or threatened resistance to the arrest. He is justified in the use of any force which he reasonably believes to be necessary to effect the arrest and of any force which he reasonably believes to be necessary to defend himself or another from bodily harm while making the arrest. However, he is justified in using force likely to cause death or great bodily harm only when he reasonably believes that such force is necessary to prevent death or great bodily harm to himself or such other person, or when he reasonably believes both that:

(1) Such force is necessary to prevent the arrest from being defeated by resistance or escape; and

(2) The person to be arrested has committed or attempted a forcible felony which involves the infliction or threatened infliction of great bodily harm or is attempting to escape by use of a deadly weapon, or otherwise indicates that he will endanger human life or inflict great bodily harm unless arrested without delay."

- "720 ILCS 5/2-8. "Forcible felony".

"Forcible felony" means treason, first degree murder, second degree murder, predatory criminal sexual assault of a child, aggravated criminal sexual assault, criminal sexual assault, robbery, burglary, residential burglary, aggravated arson, arson, aggravated kidnapping, kidnapping, aggravated battery resulting in great bodily harm or permanent disability or disfigurement and any other felony which involves the use or threat of physical force or violence against any individual."

Laquan MCDONALD was committing a burglary in the trucking lot when he was confronted by Rudy BARILLAS. When he produced a knife and attacked BARILLAS with the knife, he attempted to commit first degree murder or aggravated battery resulting in great bodily harm, and armed robbery, all of which are forcible felonies. As stated in the previously cited state statutes, Laquan MCDONALD had absolutely no authority or right to resist being arrested by people he knew to be peace officers. When he ignored the verbal directions of Officer

MCELLIGOTT to stop, and drop the knife he held in his hand as he walked away from MCELLIGOTT, MCDONALD became an offender who had attempted to commit a forcible felony which involved the infliction or threatened infliction of great bodily harm, attempting to escape arrest by the use of a deadly weapon, after having already indicated he would endanger human life or inflict great bodily harm unless arrested without delay. Under these circumstances, I believe Illinois law permitted the use of deadly force by the officers attempting to arrest MCDONALD.

MCDONALD continued to attempt to escape arrest by the use of a deadly weapon when he attacked the police vehicle occupied by Officer GAFFNEY, again using a deadly weapon, further indicating he would endanger human life or inflict great bodily harm unless arrested without delay. Again, under these circumstances, I believe the law permitted the use of deadly force by the officers attempting to arrest MCDONALD.

When Officer VAN DYKE finally confronted MCDONALD on Pulaski Road, VAN DYKE was aware of these previous circumstances from the transmissions he monitored on the police radio. By law, VAN DYKE was justified in using deadly force to effect the arrest of MCDONALD as soon as VAN DYKE exited his police vehicle. However, VAN DYKE instead attempted to arrest MCDONALD without using deadly force, by first drawing his handgun and verbally directing MCDONALD to drop the knife. MCDONALD ignored these directions and continued to advance toward VAN DYKE, with the distance between MCDONALD and VAN DYKE decreasing. It was not until MCDONALD turned directly toward VAN DYKE, squaring his shoulders toward the officer, and raised his knife, pointing it at VAN DYKE, that VAN DYKE, in defense of his life, used deadly force to prevent death or great bodily harm to himself.

The Chicago Police Department policy on the use of force is the other authority in this matter.

General Order G03-02-01, entitled "The Use of Force Model" states:

"The Department utilizes a Use of Force Model to provide guidance on the appropriate amount of force to be used to effect a lawful purpose. The Use of Force Model employs the progressive and reasonable escalation and de-escalation of member-applied force in proportional response to the actions and level of resistance offered by a subject. Such response may progress from the member's actual presence at the scene to the application of deadly force." ...

This directive also states, "Members are not required to start at the lowest levels of the Use of Force Model; they will select the appropriate level of force based on the subject's actions." ...

"The Use of Force Model is a graphic representation of the guidelines for the appropriate use of force in relation to the actions of a subject." ...

The Use of Force Model graphic basically shows a proportional use of force response to the actions of a subject. It shows that insufficient force used by a Department member will result in "Probable Ineffective Control", while too much force used by a Department member will result in "Probable Excessive Control". In the Use of Force Model graphic, for an "Assailant", whose "actions will likely cause death or serious physical injury", such as Laquan MCDONALD, in this incident, all force options are available to an officer. However, the graphic shows that "Firearms and Other Lethal Force" are most likely to be effective. The graphic shows very little chance of "Probable Excessive Control" against this type of assailant.

General Order G03-02-03 entitled "Deadly Force" states:

"II DEPARTMENT POLICY

A. A sworn member is justified in using force likely to cause death or great bodily harm only when he or she reasonably believes such force is necessary:

1. to prevent death or great bodily harm to the sworn member or to another person, or;
2. to prevent an arrest from being defeated by resistance or escape and the sworn member reasonably believes that the person to be arrested:
  - a. has committed or has attempted to commit a forcible felony which involves the infliction, threatened infliction, or threatened use of physical force likely to cause death or great bodily harm or;
  - b. is attempting to escape by use of a deadly weapon or;
  - c. otherwise indicates that he or she will endanger human life or inflict great bodily harm unless arrested without delay."

This department policy mirrors the applicable state law cited previously.

During the course of this investigation, a number of facts were learned about Laquan MCDONALD. First, he had an extensive criminal history with the Chicago Police Department. At the age of 17 he had been arrested 26 times. Charges for these arrests included Aggravated Battery to a Peace Officer, Resisting Arrest, Battery, Assault, Reckless Conduct, Possession of a Controlled Substance and Possession of Cannabis.

Second, MCDONALD had a history of mental health issues. When notified of MCDONALD's death, his uncle informed detectives that MCDONALD had been prescribed medication but had stopped taking it because he did not like the side effects. There were two documented incidents where MCDONALD had exhibited behavior problems while at school, became violent and school officials called the police. In both of these incidents he was transported to Hartgrove Hospital for evaluation and treatment.

Third, the results of the toxicological examination conducted during the autopsy of MCDONALD revealed the presence of Phencyclidine, or PCP, in his blood.

We will never know what motivated the actions of Laquan MCDONALD during this incident. Whether he was a violent criminal intent on not being apprehended, whether he was in the midst of a mental health crisis, whether he was under the influence of a mind altering drug or any combination of the three. In any case, in the situation the police officers encountered dealing with MCDONALD, he was never contained and never communicated with anyone he encountered. Under such circumstances the subject's motivation is a moot point. A violent criminal, a person in the midst of a mental health crisis and a person under the influence of any

substance, armed with a deadly weapon, are all equally dangerous, and deadly, to both the police and the civilian population.

Some talk about de-escalation techniques as an alternative to deadly force. I am a member of the Department's Crisis / Hostage Negotiation Team. I have received training from the Federal Bureau of Investigation and have attended the Department's Crisis Intervention Team (CIT) training. In order to have any chance at successfully using any de-escalation techniques to resolve a situation, whether it involves a violent criminal, person with a mental health history in crisis or a person under the influence of any substance, first, the person and the situation must be contained and second, there must be communication.

In this incident, Laquan MCDONALD was never contained as he continued to walk down the street during the entire incident, able to attack anyone at anytime. He also never communicated with anyone, from his first contact with Rudy BARILLAS through his contact with multiple police officers.

I do not believe anyone knows more about what happened in this incident than I do. I was at the scene shortly after it occurred and have personally spoken to all of the police officers involved. As the primary detective assigned to this investigation I was aware of all of the actions taken during this investigation, and personally in contact with all personnel participating in these actions.

Many people have commented on this incident in the time since it occurred. I have been asked a number of times if I knew that night, at the scene, if this shooting incident was going to be a problem. My response has always been that the actions of all of the police officers involved in this incident were absolutely proper. To this day I believe this to be true.

There are two issues at the heart of this matter. The first is the use of deadly force by Officer Jason VAN DYKE. For the reasons previously stated I believe, and continue to believe that his use of deadly force was permitted by Illinois law and Chicago Police Department policy.

The second is the number of shots. As soon as most people hear that a 17 year old offender, armed with a knife was shot 16 times, their first instinct might be to think this excessive. Without knowing and understanding all of the specific details of this particular incident, this is understandable. One needs to consider the "totality of the circumstances", as the law refers to it, to make an informed, educated and intelligent conclusion.

There will always be a segment of the population that has an unrealistic expectation of police officers. They will question why the police shot and killed an offender instead of shooting the weapon out of his hand. They will never understand the reality of the situation. Fortunately for many, they have not had the experience of putting on a uniform, whether it be as a member of the military service, or as a police officer, and putting their life on the line in a violent confrontation.

Police officers, including Chicago Police Officers, are trained that during the stress of an armed confrontation, the fine motor skills required for the highest levels of accuracy in firing a handgun, deteriorate. Officers are trained to shoot for "center mass", the torso area of an assailant, as this is the largest area, giving one the greatest chances of success. Also, officers are trained specifically not to fire just one shot and then check to see if it was effective. It is very easy

under the stress of the situation to miss the target, and even if one hits the target, firearms are not a guaranteed solution. There have been many instances of offenders shot multiple times who continued their attacks. Officers are trained to shoot as long as they perceive a threat, until the threat is eliminated.

This is the key in this situation. Officer VAN DYKE explained that he fired his handgun at MCDONALD because MCDONALD was attacking VAN DYKE with a knife. VAN DYKE continued to fire his weapon at MCDONALD as he was on the ground because MCDONALD continued to move and continued to grasp the knife, continuing to point it at VAN DYKE. VAN DYKE explained that he believed MCDONALD was attempting to get up and continue his attack on VAN DYKE.

Officer VAN DYKE was not wearing a body camera and there is no video footage showing the perspective of what VAN DYKE saw as he confronted MCDONALD. However, the video footage that was recovered in this investigation clearly shows that MCDONALD did in fact advance toward VAN DYKE. From the time VAN DYKE exited his police vehicle until the time he fired his handgun, the distance between VAN DYKE and MCDONALD decreased. When MCDONALD fell to the pavement he continued to move, continued to grasp the knife, and continued to point the knife at VAN DYKE. Even after having been shot 16 times, MCDONALD continued to grasp the knife and point it at VAN DYKE. MCDONALD did not relinquish his weapon until Officer WALSH forcibly kicked it from MCDONALD's hand. This video evidence is consistent with VAN DYKE's statement. In fact, it should be noted that per the autopsy conducted by the Office of the Medical Examiner of Cook County, MCDONALD was shot three times in the right arm and once in the right hand, and still continued to grasp the knife with his right hand.

Everyone is certainly entitled to their opinion. People can debate until the end of time whether or not they would have handled this situation in the same manner or whether this was the best way to handle this situation. However, in my opinion, according to Illinois law and Chicago Police Department policy, the actions of Officer Jason VAN DYKE were justified.

Most police actions in serious incidents such as this are not the work of a single officer but of multiple officers working together as a team. This is exactly what occurred in this incident. The officers of the 008th District, primarily Officers GAFFNEY, MCELLIGOTT, WALSH and VAN DYKE, responded in a team effort, to a call for service from a civilian who had been the victim of a forcible felony.

As a team, the officers exercised extraordinary restraint in dealing with Laquan MCDONALD, attempting to use the least amount of force necessary to take him into custody and place him under arrest. The officers, all of whom were in uniform, first used "social control / police presence" and "verbal control". Officer MCELLIGOTT used these force options when he first encountered MCDONALD. MCELLIGOTT exited his marked police vehicle, in uniform, and first directed MCDONALD to stop. MCDONALD ignored this direction. When MCDONALD took his hands out of his pockets, revealing that he was armed with a knife, MCELLIGOTT ordered MCDONALD multiple times to drop the knife. Again MCDONALD ignored MCELLIGOTT. Officer GAFFNEY then requested a unit with a taser over the police radio. This was appropriate since, at this point, MCDONALD was in a deserted area and there was no risk to any civilians. Officers WALSH and VAN DYKE were aware of these actions as they monitored the transmissions on the police radio.

As MCDONALD fled on foot, through the Burger King restaurant parking lot, he was entering a more populated area along Pulaski Road, a business street, with vehicular traffic, pedestrians and open businesses occupied by civilians, all of whom were now at risk. This is why Officer WALSH used his police vehicle to block MCDONALD's path first, toward the Burger King restaurant, and then, toward the Dunkin' Donuts restaurant.

When Officers VAN DYKE and WALSH stopped and exited their vehicle to confront MCDONALD it was because the threat to the public had escalated in this more populated environment. This threat continued to escalate as MCDONALD walked southbound. The two officers both exited their marked police vehicle, in uniform, drew their handguns, pointed their weapons at MCDONALD and ordered him multiple times to drop his knife. They made every effort to arrest MCDONALD without using deadly force. Again MCDONALD ignored any verbal direction from the officers. Finally, with MCDONALD closing the distance between himself and the officers, when he turned toward the officers and raised his knife, pointing it at them, VAN DYKE, seeing no other option, in defense of his life, fired his handgun at MCDONALD.

The decision to confront MCDONALD at that time and at that location was tactically sound. As noted, the risk to the nearby civilian population was increasing as MCDONALD proceeded southbound on Pulaski. At that particular location though, there were no civilians immediately placed at risk by the confrontation with the armed MCDONALD. There were also not a large number of police officers around MCDONALD, minimizing the risk of a crossfire situation if deadly force became necessary. Also, the background behind MCDONALD, toward which Officer VAN DYKE fired his handgun, was a large vacant lot followed by industrial buildings that were either vacant or minimally occupied. Again, if the use of firearms became necessary, the risk of harm to any other individuals was minimal.

This entire encounter between the police and Laquan MCDONALD, from Officer MCELLIGOTT's first contact on 40th Street until Officer VAN DYKE fired his weapon, lasted more than four minutes, as indicated by the police radio transmissions. During that time MCDONALD traveled on foot more than four city blocks. For a police encounter with an armed subject, who was not contained, this was a long period of time. MCDONALD was given a great deal of latitude in terms of movement, before the police decided they could wait no longer and needed to take action to stop MCDONALD, to protect the public who were becoming more and more at risk. That is when Officers VAN DYKE and WALSH acted.

It should be noted that at the time VAN DYKE fired his weapon, of the ten officers present near the scene of this incident, none was equipped with a taser. It should also be noted that many use of force experts and defensive tactics instructors would say that a taser was not the appropriate use of force against an assailant armed with a knife, especially one who had already displayed a willingness to use the knife. This is because, per Chicago Police Department policy, the use of a taser would require an officer to get within 18 feet of a subject, the optimum effective range of the Department's tasers being 7 to 15 feet. This would put the officer too close to the assailant, especially if the taser was ineffective, with insufficient time to transition to his firearm to defend himself. A taser, like a firearm, is not a guaranteed solution. The same variables exist with this force option. Two projectiles, or probes, connected to the taser by wires, must both effectively engage the target, who may be moving. One or both of the probes could miss the target. Thick or multiple layers of clothing can prevent one or both probes from effectively engaging the target. If both probes do not engage the target effectively,

the taser will have no effect at all. Additionally, even if the officer is able to successfully deploy the taser against a subject, there is no guarantee it will be totally effective and stop the subject.

One claim made by many who have been critical of Officer VAN DYKE is that there were ten officers on the scene of this incident and only one fired his weapon. It is opined that since the other nine officers did not see a need to fire their handguns, VAN DYKE was wrong, and did not need to fire his weapon. Again, one needs to consider the "totality of the circumstances", to make an informed, educated and intelligent conclusion. Of the ten officers, five of them, Officers GAFFNEY, SEBASTIAN, MONDRAGON, BACERRA and VELEZ were still in their police vehicles and were not in a position to see who fired the gunshots. Officer MCELLIGOTT, who had originally been following MCDONALD on foot, was unable to keep up with MCDONALD, and was not in a position to see who fired the gunshots. Officers FONTAINE and VIRAMONTES had just arrived at the scene and exited their police vehicle. They were farther away from MCDONALD and Officers VAN DYKE and WALSH were between them and MCDONALD. Officer WALSH stated that he believed MCDONALD was attacking WALSH and VAN DYKE with the knife when VAN DYKE fired his handgun, but WALSH did not fire his weapon because VAN DYKE was slightly ahead of WALSH, and therefore, in his line of fire. This was apparent in the video evidence recovered in this investigation.

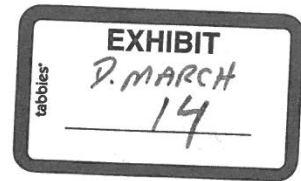
During the entire investigation of this incident I had multiple consultations with my immediate supervisors, including Sergeant Daniel GALLAGHER, Lieutenant Anthony WOJCIK, Lieutenant Osvaldo VALDEZ and Commander Eugene ROY. During all of these consultations I was repeatedly told that my interpretation and understanding of the events in this incident, as well as my conclusions, were accurate and correct. The incident commander, on the night this incident occurred, Deputy Chief David MCNAUGHTON, also agreed with this investigation, as evidenced by his approval of the Tactical Response Report submitted by Officer Jason VAN DYKE, where MCNAUGHTON checked the box stating "I have concluded that the member's actions were in compliance with department procedures and directives." At the time of this approval, the in-car camera video from the police vehicles and the video from the Dunkin' Donuts restaurant had been recovered and reviewed by all personnel involved in this investigation, including MCNAUGHTON, and personnel from the Independent Police Review Authority. No one ever expressed any reservations regarding the investigation of this incident. Commander ROY and Lieutenant VALDEZ both personally informed me that each of them had conducted separate briefings on this incident at the Public Safety Headquarters, for members of the command staff, at separate Executive Management Meetings. Both ROY and VALDEZ informed me that the entire command staff of the police department, up to and including the superintendent, agreed with the findings of this investigation and that no one had expressed any reservations.

Officer Jason VAN DYKE gave his statement to the Independent Police Review Authority within days of this incident and was returned to full duty in his unit of assignment. Another indication that no one questioned the results of this investigation.

Since this incident occurred, all of the exempt members in my chain of command have been promoted. Commander ROY was promoted to Deputy Chief and is now Chief of the Bureau of Detectives. Deputy Chief Anthony RICCIO was promoted to Chief of the Bureau of Organized Crime. Chief John ESCALANTE was promoted to First Deputy Superintendent of the Department. This investigation was conducted under the supervision of each of these command staff members. Now they are promoted and I am under investigation for separation

from the Department? First Deputy ESCALANTE stated at a news conference, shortly after being promoted, that he viewed the video of this incident two days after it occurred and found it "troubling." As the Chief of the Bureau of Detectives at that time of this incident, Chief ESCALANTE never communicated either directly or indirectly to his primary investigator, me, how troubling he found this video. As I said, no one voiced any reservations or concerns to me regarding this incident or this investigation. I was informed that the entire command staff concurred with the findings and conclusions of my investigation.

For eighteen months now, I have heard people criticize Officer Jason VAN DYKE, saying what he did was wrong. Not once have I heard anyone suggest what he should have done instead of the actions he did take. Is it really being suggested that the police should have done nothing and permitted Laquan MCDONALD to continue on his way and not stop him? A subject armed with a deadly weapon, a knife, committed multiple criminal offenses, including forcible felonies, ignored lawful orders from multiple uniformed police officers to drop his weapon and surrender, over the course of more than four minutes and four city blocks, and continued down the street, weapon in hand, putting everyone in his path at risk. Is it seriously being suggested that the police should not take action against this subject until he gains entry to one of the commercial businesses along his path, and actually attacks someone, actually inflicting death or great bodily harm? And then, in an environment where civilians are present, the police should engage this subject in a violent confrontation, creating additional risk of injury? In my opinion this is not responsible law enforcement.



(720 ILCS 5/7-4) (from Ch. 38, par. 7-4)

Sec. 7-4. Use of force by aggressor.

The justification described in the preceding Sections of this Article is not available to a person who:

(a) Is attempting to commit, committing, or escaping after the commission of, a forcible felony; or

(b) Initially provokes the use of force against himself, with the intent to use such force as an excuse to inflict bodily harm upon the assailant; or

(c) Otherwise initially provokes the use of force against himself, unless:

(1) Such force is so great that he reasonably believes that he is in imminent danger of death or great bodily harm, and that he has exhausted every reasonable means to escape such danger other than the use of force which is likely to cause death or great bodily harm to the assailant; or

(2) In good faith, he withdraws from physical contact with the assailant and indicates clearly to the assailant that he desires to withdraw and terminate the use of force, but the assailant continues or resumes the use of force.

(Source: Laws 1961, p. 1983.)

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**From:** Wojcik, Anthony T. <anthony.wojcik@chicagopolice.org>  
**Sent:** Sunday, March 15, 2015 5:33 PM  
**To:** March; David M.  
**Subject:** Conclusion  
**Attachments:** Conclusion.doc



The above to-date investigation determined that Jaquan McDONALD was an active assailant who, while armed with a dangerous weapon, used force likely to cause death or serious injury to a private citizen when he attacked and attempted to stab Rudy BARILLAS; threatened the imminent use of force likely to cause death or serious injury when he incised the tire and stabbed the windshield of a CPD vehicle occupied by Officer Thomas GAFFNEY; and initiated imminent use force likely to cause death or serious injury when he initiated an attack on Officers Jason VAN DYKE and Joseph WALSH. The above investigation concluded that Officer Jason VAN DYKE's use of deadly force – the discharging of his duty firearm – was within the bounds of the Chicago Police Department's Use of Force guidelines and in conformity with local ordinances and state law.

Based on the above the associated UCR Report RD-HX-486155 is considered Closed/Non-Criminal.

CHICAGO POLICE DEPARTMENT  
ORIGINAL CASE INCIDENT REPORT

3510 S. Michigan Avenue, Chicago, Illinois 60653  
(For use by Chicago Police Department Personnel Only)  
CPD-11.389(6.03)-C)

RD #: HX475653

EVENT #: 1429315878

Case ID: 9625613 CASH229

ASSIGNED TO FIELD

INCIDENT

IUCR: 0552 - Assault - Aggravated Po:Knife/Cut Instr

Occurrence 4000 S Karlov Ave  
Location: Chicago IL  
304 - Street

Beat: 0815

Unit Assigned: 0841R

RO Arrival Date: 20 October 2014 21:57

# Offenders: 1

Occurrence Date: 20 October 2014 21:56

VICTIM - Individual

Name: PO. GAFFNEY #19958,  
Thomas

Res: 3420 W 63rd St  
Chicago IL

Beat: 0823

Beat: 5100

Sobriety: Sober

Demographics

Male

Age: 41 Years

VICTIM - Individual

Name: PO. VAN DYKE #12865,  
Jason

Res: 3420 W 63rd St  
Chicago IL

Beat: 0823

Beat: 5100

Sobriety: Sober

Demographics

Age: 36 Years

VICTIM - Individual

Name: PO. WALSH #12865,  
Joseph

Res: 3420 W 63rd St  
Chicago IL

Beat: 0823

Beat: 5100

Sobriety: Sober

Demographics

Age: 45 Years

INJURIES

Injury Info (PO. VAN DYKE #12865,Jason - Victim)

Injured by offender

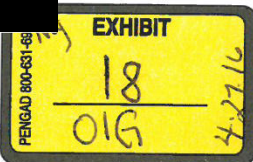
SUSPECTS

Suspect # 1

Name: MCDONALD, Lequan J

Res: [REDACTED]

Beat: 0314



Demographics

Male

Black

6'01,

185 lbs

Brown Eyes

Brown Hair

Dreadlocks Hair Style

Dark Complexion

In Custody

DOB: 25 September 1997

Age: 17 years

Birth Place: IL

Suspected of Using: Weapon

RD #: HX475653

## Chicago Police Department - Incident Report

RD #: HX475653

| Injury Info          |                       |
|----------------------|-----------------------|
| CFD First Aid Given? | Yes                   |
| Responding Unit:     | Ambulance 21          |
| Hospital:            | Mt. Sinai             |
| Physician:           | Dr. Pitzel            |
| Type                 | Gun Shot Wound        |
| Injury Extent:       | Fatal                 |
| Pronounced Date:     | 20 October 2014 22:42 |
| Removed By:          | Ambulance 21          |
| Removed Date:        | 20-OCT-14             |
| Weapon Used          | Handgun               |

| RELATIONSHIP               |                    |
|----------------------------|--------------------|
| (Victim)                   | ( Offender )       |
| PO. GAFFNEY #19958, Thomas | MCDONALD, Lequan,J |
| is a                       | No Relationship of |
| (Victim)                   | ( Offender )       |
| PO. VAN DYKE #12865, Jason | MCDONALD, Lequan,J |
| is a                       | No Relationship of |
| (Victim)                   | ( Offender )       |
| PO. WALSH #12865, Joseph   | MCDONALD, Lequan,J |
| is a                       | No Relationship of |

| DOMESTIC INFO |  |
|---------------|--|
|               |  |

| Vehicle #1           |  |
|----------------------|--|
| Vehicle:             | Chevrolet - Tahoe - Truck                                      |
| Style:               | Hardtop, 4-Door  |
| Color-Top/Bottom:    | White/White  |
| License Plate #:     | Mp6581 - Illinois - Law Enforcement (City, County, State, Sos) |
| Expires:             | 01-December-2014   |
| Vehicle Identifiers: | Police Squad Car   |
| Damaged?             | Yes  |
| Damaged Descr:       | Tire(S)-Flat, Front Windshield Scratched                       |
| Theft From?          | No   |
| Burned?              | No   |
| Destroyed?           | No   |
| Recovered?           | No   |
| Stolen?              | No   |
| Owner:               | City Of Chicago  |
| Possessor/User:      | PO. GAFFNEY #19958, THOMAS                                     |
| Towed?               | No   |

## Chicago Police Department - Incident Report

RD #: HX475653

NOTIFICATIONS

| Request Type | Unit | Agency Name                  | Date                     | Star # | Name    |
|--------------|------|------------------------------|--------------------------|--------|---------|
| Notification | 177  | Forensic Services Division   | 20 October 2014<br>23:07 | 13131  | ,SARLO  |
| Request Type |      |                              | Date                     | Star # | Name    |
| Notification |      |                              | 20 October 2014<br>23:14 | 4898   | ,JINES  |
| Request Type | Unit | Agency Name                  | Date                     | Star # | Name    |
| On Scene     | 610  | Detective Area - Central     | 20 October 2014<br>21:50 | 20563  | ,MARCH  |
| Request Type | Unit | Agency Name                  | Date                     | Star # | Name    |
| Notification | 116  | Deployment Operations Center | 21 October 2014<br>22:58 | 7303   | ,CHIBE  |
| Request Type |      |                              | Date                     | Empl # | Name    |
| Notification |      |                              | 20 October 2014<br>23:50 | 76     | ,BRIGGS |

NARRATIVE

EVENT# 15878 REFER TO DETECTIVE DIVISION SUPPLEMENTARY REPORT.  
 NOTIFICATION: WATCH COMMANDER OF UNIT LT. KOCH Beat#: Star#: 715 Emp#: Date: 20-OCT-2014 Time: 2250 NOT  
 NOTIFICATION: STATION SUPERVISOR COMISKEY Beat#: Star#: 1774 Emp#: Date: 21-OCT-2014 Time: 2250 NOT  
 NOTIFICATION: SERGEANT STEPHEN FRANKO Beat#: 0810R Star#: 1381 Emp#: Date: 21-OCT-2014 Time: 2158 ONS  
 ASSISTING OFFICER - STAR#: 10590 NAME: RICARDO VIRAMONTES BEAT: 0841R  
 REPORTING OFFICER - STAR#: 19958 NAME: THOMAS GAFFNEY BEAT: 0815R  
 REPORTING OFFICER - STAR#: 18715 NAME: JOSEPH MCELLIGOTT BEAT: 0815R  
 ASSISTING OFFICER - STAR#: 12865 NAME: JOSEPH WALSH BEAT: 0845R  
 ASSISTING OFFICER - STAR#: 9465 NAME: JASON VAN DYKE BEAT: 0845R  
 ASSISTING OFFICER - STAR#: 4364 NAME: JANET MONDRAGON BEAT: 0813R  
 ASSISTING OFFICER - STAR#: 2763 NAME: DAPHNE SEBASTIAN BEAT: 0813R  
 ASSISTING OFFICER - STAR#: 6442 NAME: TERENCE BRADY BEAT: 0811R  
 ASSISTING OFFICER - STAR#: 7025 NAME: MICHAEL BELMONTEZ BEAT: 0811R  
 ASSISTING OFFICER - STAR#: 10385 NAME: LETICIA VELEZ BEAT: 0822  
 ASSISTING OFFICER - STAR#: 15790 NAME: ARTURO BECERRA BEAT: 0822  
 ASSISTING OFFICER - STAR#: 9654 NAME: RAUL ROSALES JR BEAT: 0821R  
 ASSISTING OFFICER - STAR#: 8302 NAME: PATRICK KENNING BEAT: 0821R  
 SUPERVISOR ON SCENE - STAR#: 1320 NAME: BRYAN SPREYNE BEAT: 0865  
 SUPERVISOR ON SCENE - STAR#: 1381 NAME: STEPHEN FRANKO BEAT: 0810R  
 ASSISTING OFFICER - STAR#: 12392 NAME: DAVID IVANKOVICH BEAT: 0823R  
 ASSISTING OFFICER - STAR#: 19898 NAME: JOSE TORRES BEAT: 0823R  
 ASSISTING OFFICER - STAR#: 11830 NAME: ANTHONY VANCE BEAT: 0833R  
 ASSISTING OFFICER - STAR#: 16422 NAME: JAMES GEISBUSH BEAT: 0833R  
 ASSISTING OFFICER - STAR#: 6490 NAME: LUIS GARCIA BEAT: 0851R  
 ASSISTING OFFICER - STAR#: 12037 NAME: ELLIOT FLAGG BEAT: 0851R  
 SUPERVISOR ON SCENE - STAR#: 1734 NAME: PETER MC GLYNN BEAT: 0830R  
 OTHER SUPPORT - STAR#: 20453 NAME: JOHN HALLORAN BEAT: 5131  
 OTHER SUPPORT - STAR#: 21128 NAME: JOHN MURRAY BEAT: 5131  
 OTHER SUPPORT - STAR#: 20563 NAME: DAVID MARCH BEAT: 5121  
 OTHER SUPPORT - STAR#: 21285 NAME: GREGORY JONES BEAT: 5122  
 OTHER SUPPORT - STAR#: 20606 NAME: RICHARD HAGEN BEAT: 5165  
 OTHER SUPPORT - STAR#: 529 NAME: OSVALDO VALDEZ BEAT: 5105  
 OTHER SUPPORT - STAR#: 62 NAME: EUGENE ROY BEAT: 5100  
 OTHER SUPPORT - STAR#: 10201 NAME: CARL BRASIC BEAT: 5802  
 OTHER SUPPORT - STAR#: 8825 NAME: KAMAL JUDEH BEAT: 5802  
 OTHER SUPPORT - STAR#: 819 NAME: DAVID FRIEL BEAT: 5880  
 OTHER SUPPORT - STAR#: 20201 NAME: MATTHEW RICKHER BEAT: 5885  
 OTHER SUPPORT - STAR#: 1303 NAME: DANIEL GALLAGHER BEAT: 5120  
 ASSISTING OFFICER - STAR#: 20555 NAME: ROBERTO GARCIA BEAT: 5122  
 - STAR#: 120 NAME: DAVID MC NAUGHTON BEAT: 41  
 - STAR#: 13 NAME: JAMES O DONNELL BEAT: 0800  
 - STAR#: 107 NAME: DENNIS WALSH BEAT: 0890  
 - STAR#: 14193 NAME: MAHMOUD HALEEM BEAT: 0865B  
 - STAR#: 13516 NAME: IVAN LOPEZ BEAT: 0865B  
 - STAR#: 10333 NAME: PATRICK KENAH BEAT: 0865C  
 - STAR#: 14393 NAME: ANDRES ZEPEDA BEAT: 0865C  
 - STAR#: 13882 NAME: ROBERT SHULTZ BEAT: 0865C

PERSONNEL

|                        | Star No | Emp No | Name               | User | Date             | Unit | Beat  |
|------------------------|---------|--------|--------------------|------|------------------|------|-------|
| Approving Supervisor   | 1381    |        | FRANKO, Stephen, D |      | 1 Oct 2014 05:18 | 008  |       |
| Detective/Investigator | 20563   |        | MARCH, David, M    |      | 1 Oct 2014 15:01 | 610  |       |
| Reporting Officer      | 4484    |        | FONTAINE, Dora     |      | 1 Oct 2014 04:32 | 008  | 0841R |